

In the Matter of:

Captain Linlor

v.

Polson

William Whetsell

October 20, 2017

Casamo

Court Reporting
Videography
Videoconferencing

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF VIRGINIA
3

4 -----+
CAPTAIN JAMES LINLOR, PRO SE, :
5 Plaintiffs, :
6 vs. :CASE NUMBER
7 MICHAEL POLSON, :
in his individual capacity, :
8 Defendant, :
9 -----+

Alexandria, Virginia
Friday, October 20, 2017

11 WILLIAM WHETSELL,
12 called for examination by counsel on behalf of the
13 Plaintiff, Captain James Linlor, Pursuant to Notice
14 taken in the Offices of Casamo and Associates, 1010
15 Cameron Street, Alexandria, Virginia 22314, at
16 approximately 2:33 p.m., before Janie Arriaga, a
17 certified Verbatim Reporter, and a Notary Public in and
18 for the Commonwealth of Virginia, when there were
19 present on behalf of the respective parties.
20
21
22

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 CAPTAIN JAMES LINLOR, PRO SE

4 Linlor and Associates

5 1405 South Fern Street, Suite 90341

6 Arlington, Virginia 22202

7

8 On behalf of the Witness:

9 D'ONTAE D. SYLVERTOOTH, ESQUIRE

10 DENNIS C. BARGHAAN, JR., ESQUIRE

11 Assistant United States Attorney

12 2100 Jamieson Avenue

13 Alexandria, Virginia 22314

14

15 On behalf of TSA:

16 NATHAN S. BRYANT, ESQUIRE

17 Transportation Security Administration

18 Office of Chief Counsel

19 601 South 12th Street Floor 12,

20 Arlington, Virginia 20598

21

22 ALSO PRESENT: Mr. Smith, Assistant to Captain Linlor

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: This is the video
3 deposition of William Whetsell in the matter of Captain
4 James Linlor, pro se, versus Michael Polson, in his
5 individual capacity, in the United States District
6 Court, Eastern District of Virginia, Alexandria,
7 Virginia, Case Number 1:1CV13. This deposition is being
8 held on October 20, 2017, beginning at 2:23 p.m. The
9 address is 1010 Cameron Street, Alexandria, Virginia.

10 My name is Bill Casamo. I'm the videographer,
11 representing Casamo and Associates. Counsel will
12 introduce themselves and whom they represent.

13 CAPTAIN LINLOR: This is Captain James Linlor,
14 pro se.

15 MR. SYLVERTOOTH: D'Ontae Sylvertooth,
16 representing the individually named Defendant, and in
17 this regard also Transportation Security Administration.

18 MR. BARGHAAN: I'm Dennis Barghaan. I also
19 represent the Transportation Security Administration and
20 Mr. Polson in his individual capacity.

21 MR. BRYANT: I'm Nathan Bryant, attorney
22 advisor in the Office of Chief Counsel of the

1 Transportation Security Administration. I'm here
2 representing TSA in its capacity as the federal agency
3 responsible for regulating Sensitive Security
4 Information, or SSI, in this matter.

5 THE VIDEOGRAPHER: Also present is the court
6 reporter, Janie Arriaga. Will you please swear in the
7 witness.

8 WILLIAM WHETSELL,
9 was called for examination by Counsel on behalf of the
10 Plaintiff, and after having been duly sworn by the Court
11 Reporter was examined and testified as follows:

12 EXAMINATION BY COUNSEL FOR PLAINTIFF:

13 BY CAPTAIN LINLOR:

14 Q Okay. Mr. Whetsell, we have a few questions
15 for you. First off, did you receive a notice of this
16 deposition via a process server?

17 A I did.

18 Q Where did you receive that notice?

19 A At my home.

20 Q And where is that?

21 A 111 Fairfax Drive, Stephens City, Virginia.

22 THE VIDEOGRAPHER: Sir, I'm going to have you

1 raise your microphone.

2 THE WITNESS: I apologize.

3 BY CAPTAIN LINLOR:

4 Q Can you summarize and restate the incident of
5 March 10th, 2016, so that we can have a good
6 recollection to see what still sticks in your mind and
7 what is relevant?

8 A On that day, I was a -- I was the supervisor
9 at the location, precheck checkpoint at Dulles Airport.
10 I was working at a piece of our equipment at the back of
11 lane 50/51. I heard -- I noticed behind me there was an
12 officer doing a pat down. I heard that -- the passenger
13 stated that they had been hit and that they had been
14 sexually assaulted.

15 I turned. The passenger asked to speak to the
16 supervisor. I stated I was the supervisor. The
17 passenger again repeated they believed they had been
18 sexually assaulted. I asked if they would like to speak
19 to the police. The passenger said they would. So I
20 notified our Incident Command Center and requested
21 Metropolitan Washington Airport Authority Police
22 Department to respond to the incident.

1 At that time, some of the managers had
2 arrived, Transportation Security Managers, Carl Johannes
3 and Susan Callaghan. Metropolitan Washington Airport
4 Authority Police Department arrived. They spoke with
5 the passenger. They left with the managers. They came
6 back, stated that they wouldn't be filing a report.

7 At that point I spoke to the passenger. I
8 believe Mr. Scott Johnson, the federal security
9 director, showed up and spoke with the passenger for a
10 moment. It was at that point that as they were done,
11 the police were done, I told the passenger I needed to
12 complete the pat down as the screening had not been
13 completed. I patted down the passenger, tested my
14 gloves using explosive trace detection, and the
15 passenger was cleared.

16 Q Do you feel that that accurately reflects the
17 statement of events from March 10th, 2016?

18 A From what I recall at this point, yes.

19 Q I'm sorry, I should have asked you a question
20 to start off. So pardon me for kind of backing up here.

21 You realize that you are under oath and that
22 all of your testimony needs to be true, accurate, and

1 complete; correct?

2 A I do understand that, sir.

3 Q And is there any reason why you would not be
4 able to give full, true, and accurate testimony today?

5 A I will give it to the best of my recollection,
6 sir.

7 Q Is there any medications you might be taking
8 that might impair or affect your ability to give full,
9 complete, and truthful testimony?

10 A No, sir.

11 Q A logistical thing is we are able to
12 accommodate breaks, even though counsel knows that we
13 don't take it very often, but we are able to accommodate
14 breaks. The rules, though, that if I've asked you a
15 question you are not allowed to go and take a break
16 before you answer the question.

17 A Yes, sir.

18 Q That being said, reasonable breaks are
19 allowed. Do you need any water or anything? Is that
20 your water? I think that's someone else's water. I was
21 going to say there's water right behind you if you would
22 like.

1 A That would actually be fantastic.

2 Q If you need water or something else, please
3 let us know.

4 A I appreciate that.

5 Q This is about evidence. I'm not trying to go
6 and be unnecessarily difficult here.

7 A I appreciate that.

8 Q So you just stated that the officers stated
9 they were not going to be filing a report. What did you
10 mean by that?

11 A I don't know.

12 Q What do you -- do you have an impression or
13 opinion of what you think it might mean?

14 A No. I'm not familiar with -- with their
15 procedures.

16 Q If you -- if you heard someone say they
17 weren't going to file a report, does that -- in your
18 opinion, does that mean that you think they're not going
19 to write anything down?

20 A Again, I don't know their procedures. I don't
21 know what that means.

22 Q I just received some documents that are

1 supposed to be responsive to a subpoena issued in this
2 case. Have you had a chance to review these documents?

3 A I'm sorry, I don't have those documents.

4 CAPTAIN LINLOR: I have, I guess, two copies;
5 is that correct, counsel, that I have two copies of
6 these things? I'm happy to share one.

7 MR. SYLVERTOOTH: Yes. You should have two.
8 For the record, there were three documents that were
9 produced in response to the subpoena duces tecum that
10 was relevant to this deposition. One document has been
11 Bates-Stamped TSA 142 through 154, which was previously
12 produced in this case. And the second document is the
13 SOP refresher trainer -- trainee. And then the
14 second -- the third document is TSA-NHTP screening
15 checkpoint.

16 And you should have two copies for each one,
17 just for you and the witness.

18 CAPTAIN LINLOR: So in that case, I'm going to
19 first take the on-the-job training checklist here and
20 give this over as evidence for the witness.

21 COURT REPORTER: Do you want me to start with
22 1 again?

1 CAPTAIN LINLOR: Whatever is best.

2 MR. SYLVERTOOTH: It's your record, but for me
3 I like to keep them continuously, but --

4 CAPTAIN LINLOR: I would say continuous sounds
5 fine to me. It makes more sense. I really have no
6 preference.

7 (Whetsell Exhibit Number 7 marked for
8 identification.)

9 BY CAPTAIN LINLOR:

10 Q So this looks like a training checklist; is
11 that correct, Mr. Whetsell?

12 A It does say on-the-job training checklist.

13 Q Also, I should have asked, do you prefer to go
14 by Mr. Whetsell or Officer Whetsell or how do you want
15 to do that?

16 A Mr. Whetsell is fine.

17 Q Do TSA agents usually go by Officer Whetsell
18 or Officer Polson or do they go by their first name --
19 by their -- by the mister title; do you know?

20 A I'm sorry, I don't fully understand.

21 Q Do TSA officers usually go through -- TSOs --
22 you are a TSM; is that right?

1 A No. I'm a supervisory transportation security
2 officer, STSO.

3 Q Okay. I'll get the initials right, sorry.

4 A Not a problem.

5 Q Do -- let's just say TSA agents to be vague.

6 Are the people patting down, do they go by the term
7 mister or officer, because they have TSOs, which is
8 transportation security officer?

9 A That's correct.

10 Q So are they -- do they prefer to be called
11 officers or prefer to be called mister so and so?

12 A I can't speak to every officer. I would -- I
13 wouldn't be able to speak to every officer. I --

14 Q I'm not asking you to. In your experience, in
15 your opinion -- I'm not expecting you to know every
16 officer in TSA.

17 A I would say typically officer.

18 Q Okay. Do you -- do you believe that they are
19 equivalent to law enforcement officers?

20 A I would not know the answer to that. I don't
21 know. I doubt --

22 Q Do you believe -- were you a TSO before you

1 became a lead --

2 A Yes, sir.

3 Q -- TSO? Okay. So how long -- let's go back
4 to your employment. How long were you -- have you been
5 with TSA?

6 A Since February of 2013.

7 Q Okay. So now we're October 2017. So you've
8 been there a little bit?

9 A Yes, sir.

10 Q And did you receive training related to your
11 authorities and immunities from TSA?

12 A I received training. I can't speak
13 specifically to that particular -- I wouldn't recall a
14 specific training course on that.

15 Q You said just a minute ago that you -- I'm not
16 sure. Do you consider yourself equivalent to a law
17 enforcement officer?

18 A From my understanding, TSA is not law
19 enforcement.

20 Q Do you consider yourself equivalent to a law
21 enforcement officer?

22 A I don't enforce laws as far as I'm aware.

1 Q From the standpoint of qualified immunity, do
2 you know what qualified immunity is?

3 A I'm sorry, I'm not familiar with the term.

4 MR. SYLVERTOOTH: Form. Go ahead. Sorry.

5 BY CAPTAIN LINLOR:

6 Q Qualified immunity is -- was qualified
7 immunity ever discussed in your training?

8 A Not to my recollection.

9 Q Do you consider Mr. Polson a law -- a law
10 enforcement officer from the standpoint of having any
11 types of immunities in your opinion?

12 A I'm sorry, I don't know the answer to that.

13 Q Okay. If you had a question like that, who
14 would you go ask?

15 A I believe -- I honestly don't know.

16 Q Would you -- who is your direct supervisor?

17 A TSM Levern Lee.

18 Q Okay. Lever and Lee?

19 A Levern Lee.

20 Q Okay. Can you spell that out for me, please?

21 A Yes. L-e-v-e-r-n, last name L-e-e.

22 Q And that's a she?

1 A He.

2 Q He, sorry.

3 So -- and what would -- the title would be
4 TSM?

5 A Transportation security manager.

6 Q Did TSM Lee show up to this incident at all?

7 A Not to my recollection.

8 Q How many TSMs showed up to this incident in
9 your recollection?

10 A I recall two being there.

11 Q Do you remember their names?

12 A Yes. Susan Callaghan and Carl Johannes.

13 Q Do you remember any third TSM showing up?

14 A I don't recall specifically.

15 Q Do you think if a third TSM had shown up, that
16 you probably would have noticed them?

17 A I don't know.

18 Q What do you think would have -- would have
19 interfered with you noticing?

20 A At the time I was trying to deal with the
21 incident.

22 Q Okay. What do you think was the cause of the

1 incident?

2 A I don't know.

3 Q Were you -- did you witness the incident?

4 A I heard. I did not see.

5 Q How far away were you when you heard?

6 A Within 10 feet.

7 Q What did you hear?

8 A I recall hearing that the passenger had stated
9 they had been hit in the testicle, and I recall hearing
10 the passenger state that it was sexual assault.

11 Q Is there anything else you recall?

12 A Not that I can recall.

13 Q Do you recall -- am I the passenger that
14 you're referring to by the way?

15 A From my understanding, yes. It was Passenger
16 Linlor.

17 Q And I'm Captain Linlor, and so you -- I'm just
18 being clear for the record, because people are going to
19 read the transcript, and I don't want to put any words
20 in your mouth. Am I the passenger that you believe was
21 there on 10 March 2016, or not?

22 A From my understanding, yes.

1 Q What do you mean from your understanding?
2 What does that mean? To me the answer is no, but I
3 don't want to put words in your mouth. Please help me.

4 A I don't have identification in front of me. I
5 can't specifically state that it -- that it is you; but
6 to the best of my understanding, yes.

7 Q Fair enough.

8 MR. SYLVERTOOTH: Captain Linlor, just so that
9 we're on the same page, you didn't define incident like
10 you did with the last deposition.

11 CAPTAIN LINLOR: Did I not?

12 MR. SYLVERTOOTH: No.

13 CAPTAIN LINLOR: I'm sorry.

14 MR. SYLVERTOOTH: So I want to make sure --

15 CAPTAIN LINLOR: Thank you.

16 MR. SYLVERTOOTH: So I can avoid --

17 CAPTAIN LINLOR: I want to -- thank you.

18 Thank you.

19 BY CAPTAIN LINLOR:

20 Q So if I use the term incident -- and feel
21 free, as counsel -- I will do my best to not make you go
22 ask things back to me. But if I don't define something

1 and you're not clear, of course you should be asking,
2 and I will define it so there's no question.

3 But when I say "incident," I'm referring to
4 the events of 10 March 2016, where I allege that I was
5 the victim of a felony sexual battery, and the -- all
6 related to the search that -- that initiated that and
7 the events surrounding that. That's what I mean by
8 incident.

9 A So the events of that day?

10 Q Exactly. Exactly. Incident is not a car
11 collision on the freeway. Fair enough.

12 Let's see. Let's just first go to the
13 responsive documents here. Did you -- and then I'll
14 come back to -- come back to this, that I just gave you.
15 So the responsive documents, there's two other -- two
16 other documents that are not Bates stamped, but they are
17 one listed, as counsel said, the SOP refresher training,
18 page 7 of 18 through 10 of 18, and then two slides after
19 that.

20 CAPTAIN LINLOR: And so if we could enter that
21 next, please, as evidence.

22 (Whetsell Exhibit Number 8 marked for

1 identification.)

2 BY CAPTAIN LINLOR:

3 Q And then next is a TSA-NHTP screening
4 checkpoint standard pat down, page 12 of 75 through page
5 27 of 75. And I believe that's inclusive here.

6 CAPTAIN LINLOR: Is that inclusive, Counsel?

7 MR. SYLVERTOOTH: The last page?

8 CAPTAIN LINLOR: Because it jumps --

9 MR. SYLVERTOOTH: Yeah.

10 CAPTAIN LINLOR: No. It's not inclusive. It
11 says, 12 of 75, and then the next page is 15 of 75.

12 MR. SYLVERTOOTH: Right. Let me just clarify.
13 These are the pages within this particular document,
14 which is the screening checkpoint TSA-NHTP. These are
15 the documents responsive to your subpoena.

16 CAPTAIN LINLOR: That's --

17 MR. SYLVERTOOTH: So that's why they jump
18 around.

19 CAPTAIN LINLOR: That's where I was going.

20 MR. BARGHAAN: We hadn't had them Bates
21 stamped.

22 MR. SYLVERTOOTH: Yeah, we had not Bates

1 stamped them.

2 MR. BARGHAAN: These are the actual pages of
3 the document.

4 CAPTAIN LINLOR: Yeah, that's fine. I am fine
5 with that, Counsel. I'm trying to clarify because I
6 said inclusive, and then I realized that there's a page
7 jump.

8 MR. SYLVERTOOTH: Yeah.

9 CAPTAIN LINLOR: And so it's not inclusive.

10 MR. SYLVERTOOTH: Yeah, you're right.

11 CAPTAIN LINLOR: I'm just trying to make sure
12 for the court reporter and the record that we know what
13 we have and what we're looking at. Yeah, I only want
14 responsive things. We will discuss responsivity, if
15 that's a word, next, but, you know, one thing at a time.

16 (Whetsell Exhibit Number 9 marked for
17 identification.)

18 BY CAPTAIN LINLOR:

19 Q So you have copies of those, Mr. Whetsell.
20 Have you seen these documents before? Maybe let's
21 start -- let me make this a bit easier on you and
22 everyone. Let's start with the SOP refresher training.

1 How about that?

2 A Okay.

3 Q Instead of just randomly saying documents and
4 not defining it, as counsel, I'm sure, rightfully will
5 be saying, you want to help out a little bit here.

6 So SOP refresher training, and that's page
7 7 -- oh, we're not -- we're still not inclusive. We
8 jump 7, 8, 10. So it's unique pages, which is fine as
9 long as we're covering everything that needs to be
10 covered.

11 Have you seen these pages -- any of these
12 materials before please, Mr. Whetsell?

13 A I don't recall seeing this particular
14 document.

15 Q Okay. On the first one, which is SOP
16 refresher training -- you've been with TSA since 2013;
17 correct?

18 A Yes, sir.

19 Q It's now 2017. Did you go through initial SOP
20 training?

21 A Yes, sir.

22 Q When was that?

1 A When I first came to the agency, between
2 February or March of 2013.

3 Q Okay. Have you gone through SOP refresher
4 training?

5 A I have.

6 Q When was that?

7 A I can't recall the exact date, sir.

8 Q Do you believe that that SOP refresher
9 training included the document you have in front of you?

10 A I believe it may have included the material.
11 Again, I don't know that I've ever seen this exact
12 document.

13 Q Do you believe that your SOP refresher
14 training was since March of 2016 or before March of
15 2016?

16 A I've had training since then. I don't recall
17 if it was this exact training, sir.

18 Q Understood.

19 Was the SOP refresher training that you had,
20 irrespective of the documents used, before February --
21 before March of 2016 or after March of 2016?

22 A I know I've had it before. I can't -- I can't

1 specifically state that I've had it since.

2 Q Is there any frequency that you usually have
3 recurrent training on the SOP?

4 A We do recurrent training on the SOP.

5 Q What is the frequency of that recurrent
6 training?

7 A Typically annually.

8 Q Typically what?

9 A Annually.

10 Q Typically annually. So every year there
11 should be -- you should have gone through this?

12 A Yes.

13 Q Okay.

14 CAPTAIN LINLOR: Counsel, I don't see a date
15 on these to show when they would be. Do you know if
16 there's --

17 MR. SYLVERTOOTH: Are you asking the date that
18 they were created or the date that this training -- this
19 refresher training was issued? What are you asking?

20 CAPTAIN LINLOR: Everything. I want it all.
21 No. I would like to know when they were created or
22 updated or whatever.

1 MR. SYLVERTOOTH: I will need to consult with
2 TSA on that.

3 CAPTAIN LINLOR: That will be a great action
4 for our TSA representative to perhaps consider being
5 able to help us with, because it's -- there's no date,
6 and that can be a question later on perhaps.

7 MR. BRYANT: To be clear what you're asking,
8 you want the date that this document was published, the
9 dates that it was in use.

10 CAPTAIN LINLOR: Yes. You name it and I want
11 it, pretty much. There's very little that I will
12 refuse, so -- but at the very least, I would like to
13 know, all joking aside, seriously, when was this
14 created, when was it updated, when was it released.

15 MR. BRYANT: I can identify -- we can identify
16 those dates.

17 CAPTAIN LINLOR: Thank you very much.

18 BY CAPTAIN LINLOR:

19 Q Mr. Whetsell, looking at this training, first
20 off, I'm just kind of looking through this, is there --
21 on the -- on page 8 of 18, the second page of this
22 document, can you look at that?

1 A Yes, sir.

2 Q Do you see, it says, slide 16. The part
3 that's blacked out, do you see that?

4 A I do.

5 Q Why is it blacked out?

6 A I don't know.

7 MR. SYLVERTOOTH: So here is -- here's why I
8 should express this very quickly. So these documents,
9 particularly all three that were produced in reference
10 to the subpoena, we may disagree on this, but let me
11 tell you the position. TSA is the -- is in the
12 possession, custody, and control of these documents. So
13 before they were produced, they had to undergo SSI
14 review. The SSI department determined that those
15 particular areas of these documents that are blacked out
16 cannot be produced because they've been identified as
17 SSI.

18 CAPTAIN LINLOR: Do you -- I'm going to -- I
19 appreciate that, Counsel. I'm going to ask my questions
20 to the Deponent on this, and I'm sure you'll have a
21 chance to chime in.

22 BY CAPTAIN LINLOR:

1 Q So don't feel that I'm asking you, but that's
2 the way it has to work, because he's not -- he's not
3 testifying and you are.

4 Were you -- you were asked to go and produce
5 documents under a subpoena at this deposition. Are you
6 aware of that?

7 A No.

8 Q Did you receive the -- not just the notice of
9 this hearing, but did you receive a copy of the
10 subpoena -- I apologize. Did you receive a notice for
11 this deposition -- I'm going to back up and start all
12 over.

13 You received a notice for this deposition as
14 we -- as we previously stated; correct?

15 A Yes.

16 Q Did you also receive a service by a process
17 server of the subpoena for this deposition?

18 A Yes.

19 Q When did you receive the copy of the subpoena
20 for this deposition?

21 A I don't recall the exact date.

22 Q Do you think it was about a week ago?

1 A I would say it was roughly a week ago.

2 Q Did you read through that subpoena?

3 A I did read through the subpoena.

4 Q Did the subpoena reference documents that you
5 were to produce today?

6 A I don't recall.

7 Q Are you represented in your individual
8 capacity today by counsel?

9 A I'm sorry, I don't fully understand the
10 question.

11 Q Do you have a lawyer? Do you have a lawyer
12 representing you?

13 A I don't -- I have lawyers here that -- I'm
14 sorry, I don't -- I'm not --

15 CAPTAIN LINLOR: Are one of you Mr. Whetsell's
16 attorney in his individual capacity?

17 MR. BARGHAAN: No. You go ahead and --

18 MR. SYLVERTOOTH: Well, Mr. -- again, this is
19 where we diverge in our understanding of this process.
20 Mr. Whetsell -- you say individual capacity.
21 Mr. Whetsell has been subpoenaed based upon his position
22 as a supervisory transportation security officer under

1 the regulations and applicable law. TSA controls that
2 information. We represent TSA.

3 As an extension of his official capacity as a
4 supervisor, there is privilege there, but to the extent
5 you're asking whether or not we represent his individual
6 interest, no. We represent the interest of TSA --

7 CAPTAIN LINLOR: Understood.

8 MR. SYLVERTOOTH: -- and his role.

9 CAPTAIN LINLOR: And we are disagreeing on the
10 professional capacity --

11 MR. SYLVERTOOTH: Yes.

12 CAPTAIN LINLOR: -- and all that. But I'm
13 just --

14 BY CAPTAIN LINLOR:

15 Q Because you're looking at me with such a blank
16 look on your face of what am I talking about. We are
17 talking about do you have a lawyer for you in your
18 individual capacity, as how you are appearing here
19 today? That is a question.

20 A I do not have a lawyer that I hired.

21 Q Okay. Fair enough.

22 But you did receive a subpoena about a week

1 ago for you to appear here today; correct?

2 A Yes.

3 Q And you're not sure if it included production
4 of documents?

5 A I don't recall.

6 Q Have you seen these documents before today --
7 today as far as being assembled for this deposition?

8 A Which documents?

9 Q The ones in front of you.

10 A Not to my recollection, but I have seen a
11 document similar to this.

12 Q Can you say what "this" is so that the
13 reporter --

14 A On-the-job training checklist.

15 Q Got it. Thank you.

16 So on the subpoena, we're looking for
17 guidelines, and I don't have a copy of the subpoena to
18 put into evidence.

19 CAPTAIN LINLOR: Counsel, do you happen to
20 have a copy of the guideline's portion so we can read it
21 in for the court reporter?

22 MR. SYLVERTOOTH: If we're going to put it

1 in -- I have the complete subpoena. So do you want me
2 to give you that?

3 CAPTAIN LINLOR: Whatever is easiest for you.
4 I was just going to read in the guidance portion so that
5 we can put that on the record, so we know what we're
6 comparing against. But if you think it's better to
7 put the whole subpoena in, we can do that, too.

8 MR. SYLVERTOOTH: My preference would be to
9 place the entire document into the record --

10 CAPTAIN LINLOR: I don't mind

11 MR. SYLVERTOOTH: -- just for completion.

12 CAPTAIN LINLOR: I don't mind.

13 MR. SYLVERTOOTH: But let me find it.

14 CAPTAIN LINLOR: Okay. Since I am
15 appreciating you being so kind, let me leave you with
16 that, and then we can move on and then come back to
17 that.

18 BY CAPTAIN LINLOR:

19 Q The subpoena that he will find lists a number
20 of topics that I am looking for and that the court has
21 approved to be received during this deposition, so that
22 we can discuss those topics.

1 A Okay.

2 Q And at issue for the case, is was excessive
3 force used in violation of my Fourth Amendment rights
4 during the pat down that I received from Mr. Polson?

5 CAPTAIN LINLOR: Thank you, Counsel. I'll
6 give this -- can I give this --

7 MR. SYLVERTOOTH: Yes.

8 CAPTAIN LINLOR: -- to the court reporter.
9 Great.

10 Let me give it to you. I'm actually going to
11 look at it for a minute.

12 (Whetsell Exhibit Number 10 marked for
13 identification.)

14 CAPTAIN LINLOR: Thank you, Counsel.

15 MR. SYLVERTOOTH: You're welcome.

16 BY CAPTAIN LINLOR:

17 Q So this is document number 134 in the case.
18 And the top -- and I'll hand it to you in just a minute
19 so you can also then refer to it.

20 But the topics that the court authorized are
21 TSA -- and then as a group, I'll refer to it afterwards
22 as guidance -- TSA standards and training guidelines,

1 practices and procedures, and that group referred to as
2 guidelines, related to pressure used by TSOs in
3 passenger pat downs of thighs, groins, and genitals in
4 pat downs, plus the same guidance, meaning standards and
5 training guidelines, practices, procedures, the same
6 guidance used to ensure that excessive force is not used
7 in pat downs.

8 So we're clear on what this -- what this
9 should cover and what -- and all the responsive
10 documents to that are supposed to include. I know that
11 this is a little bit maybe of a difficult question for
12 you to answer because you say you hadn't seen all these
13 documents before today. But based upon this subpoena,
14 I'm looking at the documents in front of you, to the
15 best of your knowledge, do you believe that these
16 documents represent all the responsive documents in your
17 possession, custody or control that are responsive to
18 the subpoena?

19 CAPTAIN LINLOR: Court reporter, when he
20 finishes reading, I'll ask you to read back my question,
21 please, because it would have been a while.

22 THE WITNESS: I appreciate that.

1 (Discussion off the record.)

2 CAPTAIN LINLOR: Our side conversation does
3 not need to be on the record.

4 THE VIDEOGRAPHER: Back on the record at 3:09.

5 CAPTAIN LINLOR: Can you read back the
6 question before Mr. Whetsell went to read the stack of
7 documents?

8 (Thereupon, the court reporter read back the
9 requested testimony.)

10 A To the best of my knowledge.

11 BY CAPTAIN LINLOR:

12 Q Does the -- do you know why the redaction in
13 these documents occurred? Under what basis?

14 A I don't.

15 Q Are you familiar with any of the information
16 that was redacted?

17 A I don't know, because I don't know the words
18 that were redacted.

19 Q Can you point to where you believe in the
20 first document, SOP refresher training, it indicates
21 responsive documents and/or guidance related to pressure
22 used -- we were referring previously to this as

1 sensitive areas. Sensitive areas is defined as thighs,
2 groins and genitals. So we're not looking at buttocks,
3 we're not looking at breasts, we're not looking at any
4 portions of the body. We're looking at thighs, groins,
5 and genitals.

6 Based on that, can you show me where, and
7 let's discuss, this document is responsive to the
8 pressure used and guidance for searches in those areas?

9 A Under the section labeled slides 14, 15,
10 general techniques for conducting standard pat down.

11 Q Okay. And that's on page 8?

12 A Correct. It states: Apply enough pressure to
13 satisfactorily see that no item including explosives,
14 explosive vest, non metallic weapon or any other
15 prohibited item is hidden in the area being searched.

16 And then further below: The exact amount of
17 pressure is dependent on the thickness of the clothing
18 worn by the individual being searched.

19 I would believe those to be responsive.

20 Q We previously had defined striking as the
21 pressure and force of your hand meeting resistance where
22 when you're sliding your hands up the thigh until it

1 reaches the groin. So that resistance then that is
2 felt, regardless of the force that is used, is what we
3 were defining as striking. Okay?

4 A Okay.

5 Q Understood?

6 A I believe so. Could you -- could you
7 reword -- like repeat that for me.

8 CAPTAIN LINLOR: Can you repeat back what I
9 said, please?

10 (Thereupon, the court reporter read back the
11 requested testimony.)

12 MR. SYLVERTOOTH: Now, when you say
13 "previously defined," are you referencing Mr. Polson's?

14 CAPTAIN LINLOR: I am.

15 MR. SYLVERTOOTH: Because that's not how we
16 defined it.

17 CAPTAIN LINLOR: Is there another definition
18 that you know, Counsel? We can go all the way back, but
19 that's -- I'm trying to be as --

20 MR. SYLVERTOOTH: The way that --

21 CAPTAIN LINLOR: -- accurately as I can.

22 MR. SYLVERTOOTH: The way that I recalled is

1 that you indicated that it is the force between when one
2 mass contacts the other. It was just a simple contact.

3 CAPTAIN LINLOR: You know, I think that that's
4 even a better one. I like the way I was thinking
5 before. So I'm happy with either definition. So we can
6 go with one mass contacting another.

7 But it's related to its application, I think
8 we could agree, is related to when you're doing a pat
9 down and sliding your hand up, and contact resistance at
10 the groin. Would that be acceptable?

11 MR. SYLVERTOOTH: As long as he understands.

12 BY CAPTAIN LINLOR:

13 Q Okay. Does that make sense?

14 A Let me just make sure I'm understanding.

15 Q Please. Sure.

16 A So when two objects meet, regardless of the
17 force, is what you're considering striking?

18 Q Yeah, we -- otherwise we have a 20-line
19 definition.

20 A That's fine. I just want to make sure that
21 I'm understanding that it's regardless of force.

22 Q Yes. Now, the question is, the level of

1 striking and guidance and measures and so forth. So
2 where does the guidance that you just pointed out refer
3 to measures of force, please?

4 A I would have to refer you back to the areas
5 that I spoke to before; applying enough steady pressure
6 to see satisfactorily, no item including explosives,
7 explosive vest, non metallic weapons or any other
8 prohibited item is hidden in the area being searched.
9 And then again with the exact amount of pressures,
10 dependent on the thickness of the clothing worn by the
11 individual being searched.

12 Q How -- you have been a TSO as well as a -- is
13 it L --

14 A Supervisor.

15 Q STSO?

16 A Yes, sir.

17 Q Both. Okay.

18 How is that level of striking force measured?

19 A Sorry, I'm not exactly understanding.

20 Q How is that level of striking force measured?

21 Is it in foot? Pounds? Per square inch?

22 A I don't know the answer to that.

1 Q Has that -- has that striking force ever been
2 discussed in any of your initial or recurrent training?

3 A Not that I'm aware of.

4 Q Has the term excessive force ever been defined
5 by TSA?

6 A I don't know.

7 Q How would you define excessive force? Let me
8 be specific. Not in general or, you know, planets
9 colliding. In terms of the incident and in terms of
10 searching a passenger during a TSA checkpoint pat down.

11 A I hate to use the term in the definition. But
12 using more force than would be necessary to ensure that
13 these guidelines are met.

14 Q How would you know if you were doing a pat
15 down? Because you do pat downs sometimes; correct?

16 A That's correct, sir.

17 Q And you patted me down subsequently in this
18 incident; correct?

19 A I did, sir.

20 Q How would you know that you were not using
21 excessive force?

22 A I would have to base it on my level of

1 experience and response from the passenger.

2 Q What kind of responses from a passenger might
3 exhibit caution that excessive force might have been
4 used?

5 A I would imagine oral communication.

6 Q Anything else?

7 A Some body language possibly.

8 Q What kind of body language do you think?

9 A I wouldn't know. It would depend on the
10 person.

11 Q Do you think that if someone were striking the
12 genitals and covering -- that person covering their
13 genitals with their hand would be a natural reaction?

14 A I would say dependent on the person, it would
15 probably be a natural reaction.

16 Q Are there -- were there ever any type of
17 anatomical dummies or any type of methods like that used
18 in your training to be able to assess the level of force
19 that TSO is using or -- all TSO or anyone who is doing a
20 pat down for TSA?

21 A I'm not certain how much of my training will
22 that speak to.

1 Q Well --

2 CAPTAIN LINLOR: Can we read back the
3 question, please.

4 (Thereupon, the court reporter read back the
5 requested testimony.)

6 A Dummies, no.

7 BY CAPTAIN LINLOR:

8 Q Have there ever been any force measurement,
9 systems or devices used to evaluate the level of force
10 being used by TSOs during pat downs?

11 A Not to my knowledge.

12 Q Have you ever made a mistake doing a pat down?

13 A Not that I can recall.

14 Q What would be defined as a mistake during --
15 how would you define a mistake during a pat down?

16 A Not following proper procedure.

17 Q Would missing a contraband item be considered
18 a mistake?

19 A I would say so.

20 Q Have you ever missed a contraband item during
21 a pat down?

22 A Not that I can recall.

1 Q Including during your training?

2 A I don't recall.

3 Q Looking at the slides 14 to 15 section that
4 you pointed out.

5 A Yes, sir.

6 Q We're still on that.

7 A Okay.

8 Q The third bullet talks about the exact amount
9 of pressure is dependent upon the thickness of clothing
10 worn by the individual being searched. Do you find that
11 as varying a lot?

12 A It can vary.

13 Q Do you think moisture is a big factor in its
14 variability?

15 A I don't know.

16 Q Do you think outside weather is a big factor
17 in its variability?

18 A In the variability of what particularly?

19 Q Of the amount of pressure that you would use,
20 could that be affected by the outside weather, outside
21 the building?

22 A I don't know.

1 Q In your opinion? What is your opinion?

2 A Does weather directly affect the amount of
3 pressure that is needed?

4 Q That's exactly what I'm asking, yes.

5 A To my knowledge, no.

6 Q Can you think of a way where weather outside
7 the building might impact that?

8 A Directly, no.

9 Q Do you think that weather should have been
10 added to the list here to make it more complete?

11 A In my opinion, no.

12 Q Is there anywhere else in this first document
13 that you -- where the level of pressure used in a
14 striking manner is defined -- is discussed or procedures
15 or guidance from TSA?

16 A On the first page it says: Any areas that may
17 be sensitive or painful to the touch; if yes, use
18 lightest pressure possible that will still allow
19 checking the area for prohibited items.

20 Q And is that similar to the last page on item
21 C, also, bullet number C?

22 A Yes, sir.

1 Q So they're roughly equivalent?

2 A Roughly equivalent, sir, yes.

3 Q How would lightest pressure possible -- is
4 lightest pressure possible how you're pressing inward on
5 someone's thigh then as one example?

6 A I would say -- go ahead, repeat that.

7 Q Is lightest pressure possible how hard you are
8 pressing in on someone's thigh to try to detect
9 contraband?

10 A I would say that would be an example, yes.

11 Q Okay. Is the -- how is lightest possible
12 pressure related to the striking force earlier defined?

13 A So as we defined it earlier, when two objects
14 meet --

15 Q Correct.

16 A -- lightest pressure to me would mean meeting
17 with the least amount of force necessary.

18 Q If more than the amount of force necessary
19 were used would you expect an immediate reaction from a
20 passenger?

21 MR. SYLVERTOOTH: Form.

22 CAPTAIN LINLOR: Specific, Counsel?

1 MR. SYLVERTOOTH: Speculation.

2 BY CAPTAIN LINLOR:

3 Q Have you ever -- have you ever seen or heard a
4 passenger who alleged excessive use of force during a
5 pat down?

6 A The particular instance for why -- the
7 instance as to why we're here.

8 Q Okay. Have you ever heard or seen any other
9 incident other than this particular one for excessive
10 use of force by any TSA agent in your familiarity?

11 A Excessive use of force, not that I can recall.

12 Q In the second productive document titled
13 TSA-NHTP screening checkpoint --

14 MR. SYLVERTOOTH: For the record, that's
15 Exhibit 9?

16 CAPTAIN LINLOR: Thank you.

17 MR. SYLVERTOOTH: No. I'm asking. Are you
18 talking about Exhibit 9?

19 CAPTAIN LINLOR: Whatever she -- yes,
20 whatever --

21 MR. SYLVERTOOTH: For the purposes of making
22 the record clear, you saying the first, second

1 document --

2 CAPTAIN LINLOR: I'm sorry.

3 MR. SYLVERTOOTH: This document, the OJT
4 checklist, is identified as Exhibit 7. So technically
5 that would be the first exhibit in this deposition.

6 The second deposition notice would be this
7 refresher training, that's Exhibit 8, and the third
8 document would be this TSA-NHTP screening checkpoint,
9 Exhibit 9, just so it's clear and we're all on the same
10 page.

11 CAPTAIN LINLOR: I'll refer to it that way.
12 Thank you.

13 BY CAPTAIN LINLOR:

14 Q So Exhibit 9, do you -- can you point out
15 where you believe this document is responsive to the
16 questions on the subpoena?

17 A So firstly, on page 15 --

18 Q Please continue.

19 A On page 15, it states: Ask the individual if
20 there are any areas of his or her body that may be
21 sensitive or painful to the touch or if he or she is
22 wearing any external or implanted medical devices. If

1 such an area is identified, use caution and the lightest
2 pressure possible to be able to clear the area of
3 prohibited items.

4 Q Is there anywhere else in this first document
5 that you see? And this is, again, responsive to the
6 subpoena.

7 A Use enough -- on page 17: Use enough steady
8 pressure to decide that no prohibited items including
9 the following are present. Explosives, explosive vest,
10 explosive component, non metallic weapons, any other
11 prohibited items.

12 Q Can you read that sentence above the bullet
13 list again? Is that what you said before?

14 A I'm sorry, say that one more time?

15 CAPTAIN LINLOR: Can you read back what the
16 Deponent said before, please, starting with the use.

17 (Thereupon, the court reporter read back the
18 requested testimony.)

19 BY CAPTAIN LINLOR:

20 Q Is that what it says there?

21 A It says, use just enough steady pressure.

22 Q Did you say use just enough before or use

1 enough?

2 COURT REPORTER: He may have said that.

3 CAPTAIN LINLOR: No, he didn't say just
4 enough.

5 A My apologies. Use just enough.

6 BY CAPTAIN LINLOR:

7 Q There's a difference; right?

8 A That's what it states. What it states here
9 is: Use just enough steady pressure to decide that the
10 prohibited item -- that no prohibited item --

11 Q So the word "just" minimizes the pressure;
12 correct?

13 MR. SYLVERTOOTH: Form.

14 BY CAPTAIN LINLOR:

15 Q Does the word "just" minimize the pressure in
16 that sentence?

17 A It clarifies.

18 Q You don't think that it minimizes it to say
19 "use just enough" as opposed to "just enough"?

20 A In my opinion, it's a clarification.

21 Q It clarifies -- you feel it clarifies, but you
22 don't feel it limits it in any function?

1 A I'm sorry, I don't understand the difference.

2 Q Is there anywhere else that excessive force or
3 restrictions from excessive force are discussed in this
4 document?

5 A Under section 26, nonsensitive areas, it says:
6 Be sure to use the front of the hand, palm and fingers
7 and apply steady pressure.

8 Q And where does that use -- where does that
9 describe excessive force?

10 A I'm sorry, no. It relates to force, not
11 excessive force. I apologize.

12 Q Is there anywhere else that excessive force is
13 discussed in this document?

14 A I don't see excessive force stated in here
15 anywhere.

16 Q Have you ever seen excessive force described
17 in TSA training?

18 A Not to my recollection.

19 Q What about pressure sensitive feedback
20 mechanisms to avoid excessive force?

21 A I don't recall.

22 Q After I claimed that I had been the victim of

1 a felony sexual battery, do you recall the statements
2 that I made afterwards?

3 A Not specifically, sir.

4 Q Do you recall me asking the screener, TSO
5 Polson, why he hit me in the groin?

6 A I don't recall that.

7 Q Do you recall me asking for an apology?

8 A I don't recall.

9 Q Do you believe that I did ask for an apology
10 or you have no recollection?

11 A I can't speculate on that. I don't recall.

12 Q Were you the person who called for the police
13 to come to the incident as defined?

14 A I contacted our Incident Coordination Center
15 to have Metropolitan Washington Airport Authority Police
16 Department respond, yes.

17 Q Was that at my request?

18 A From my recollection, I asked you if you would
19 like to speak with the police.

20 Q And what do you recall my answer was?

21 A That it was an affirmative. An affirmative.
22 An affirmative response.

1 Q Do you feel that means that I requested the
2 police to come, for you to call -- for you to ask them
3 to come?

4 A Are you asking me if you specifically asked
5 for the police?

6 Q Yes.

7 A No.

8 Q So you do not believe that I asked for the
9 police to come to the incident?

10 A I don't recall you specifically asking for the
11 police to come to the incident.

12 Q Did you ask me if I wanted the police to come?

13 A I recall asking.

14 Q And you said that I answered in the
15 affirmative; correct?

16 A Correct.

17 Q Is that not the same for asking the police to
18 come?

19 A I would say that is responding to my
20 inquisition to you, if you would like them to come,
21 rather than you specifically stating that you would --
22 or you asking me to call them.

1 Q Do you believe that the police came at my
2 behest?

3 A I don't know the answer to that.

4 Q What does the word "behest" mean in this --

5 A I don't -- I don't fully understand that.

6 Q Behest would be request.

7 A Okay.

8 Q Do you believe that I was requesting for the
9 police to come?

10 A Can you define request for me, at least your
11 definition that you're using it here?

12 Q I don't know how to explain it any further.
13 We can repeat the question more if you would like?

14 A As I stated before, I asked you if you would
15 like to speak with the police. You answered in the
16 affirmative.

17 Q Yes. And then you -- and --

18 A And then I called --

19 MR. SYLVERTOOTH: Wait. Can you either let
20 him finish his question or you allow him to finish his
21 answer, but --

22 THE WITNESS: My apologies.

1 CAPTAIN LINLOR: Fair enough, Counsel.

2 A Go ahead.

3 BY CAPTAIN LINLOR:

4 Q You go ahead.

5 A Okay. I don't want to intrude.

6 Q We're both all of a sudden, no, you first.

7 Okay. So I asked -- I answered, yes, I wanted
8 to have the police come. Do you agree with that
9 statement?

10 A I can't state that you specifically stated
11 that.

12 Q Because of the words or because that wasn't
13 the intent?

14 A I don't recall the specific words utilized.

15 Q Do you think the words don't -- right now --
16 did you call the police based on -- based on the
17 incident?

18 A I contacted our coordination center to request
19 a response from the Metropolitan Washington Airport
20 Authority Police Department.

21 Q And why did you do that?

22 A Based on your response to, would you like to

1 speak to the police.

2 Q Okay. How would you describe my demeanor at
3 that time?

4 MR. SYLVERTOOTH: Form on. If you identify at
5 what time, I will remove my objection.

6 BY CAPTAIN LINLOR:

7 Q How would you describe my demeanor at the time
8 you called the police?

9 MR. SYLVERTOOTH: My objection is withdrawn.

10 A Aggravated.

11 BY CAPTAIN LINLOR:

12 Q Would you describe it as unruly?

13 A I would need to know your definition of unruly
14 before I make that determination.

15 Q I don't have a special definition of unruly,
16 other than what might be in the dictionary. I'm just
17 asking your opinion, if you would describe my behavior
18 at the time as unruly?

19 A Again, without knowing the exact meaning of
20 the word, I can't -- I'm not going to say that that's
21 what I would say.

22 Q Did you use the word unruly in describing my

1 behavior to anyone?

2 A Not that I recall.

3 Q When you make a police report, do you call on
4 the radio?

5 A I contact our coordination center via radio.

6 Q And do you know the words that you used in
7 this incident to contact them?

8 A I don't recall.

9 Q Do you believe you used the word unruly?

10 A I can't speculate. I don't recall.

11 Q If you had used the word unruly, would that be
12 the kind of description that would have stuck with you
13 in your opinion?

14 A I don't know.

15 Q Do you have many unruly passengers?

16 A We have some.

17 Q How frequently do you have an unruly passenger
18 who claims sexual assault?

19 A Very rarely.

20 Q Have you handled a passenger who's claimed
21 sexual assault?

22 A Not to my knowledge.

1 Q Didn't you just say "very rarely"?

2 A I would define very rarely as once.

3 Q So has any other passenger ever claimed sexual
4 assault by TSO?

5 A I can't speak to that. I don't know the
6 answer to that.

7 Q Any TSO that you know of or that you have
8 heard of?

9 A Not to my knowledge.

10 Q Let's take a look at the statement that you
11 submitted. And this was previously -- I think the first
12 exhibit.

13 MR. SYLVERTOOTH: It was not the first
14 exhibit, but --

15 CAPTAIN LINLOR: You know where I'm going.

16 MR. SYLVERTOOTH: Exhibit 2.

17 CAPTAIN LINLOR: 2. I was close.

18 BY CAPTAIN LINLOR:

19 Q Could you read this exhibit, please? It says
20 statement -- and for the record, this is TSA Bates
21 Stamped 000027, and it was previously entered as Exhibit
22 2 into the record. If you could read the full statement

1 please out loud.

2 A Yes, sir.

3 On Thursday March 10th, 2016, at 11:53, I was
4 working at the ETD machine located on the sterile side
5 on lanes 50/51. Transportation security officer, TSO
6 Michael Polson, was performing a standard pat down on
7 Passenger James Daniel Linlor, who opted out of the body
8 scanner. I heard Passenger Linlor state that TSO Polson
9 had forcefully hit him in the testicle while performing
10 the pat down. I turned around to observe the situation,
11 and the passenger requested to speak to a supervisor. I
12 stated that I was the supervisor and I asked how I could
13 assist.

14 The passenger again stated that TSO Polson had
15 hit him in the testicle while performing the pat down
16 and stated that it was sexual assault. The passenger
17 stated that he did not want TSO Polson to complete the
18 pat down.

19 I asked if the passenger would like to speak
20 with the police as he had stated sexual assault. He
21 stated that he would like to speak with the police. I
22 notified the Incident Coordination Center, ICC, at

1 11:55, and requested Metropolitan Washington Airport
2 Authority, MWAA, Police Department, P.D. TSM Susan
3 Callaghan and TSM Carl Johannes arrived at lane 50/51
4 and spoke with the passenger.

5 MWAA P.D., M-W-A-A-P-D, arrived at lane 50/51
6 at 12:00. MWAA P.D. spoke with Passenger Linlor. TSM
7 Callaghan and TSM Johannes took MWAA P.D. to view the
8 video of the incident. After returning MWAA P.D. again
9 spoke with Passenger Linlor and stated that they would
10 not be filing a report.

11 Passenger Linlor asked that the videos be
12 placed into an evidence chain of custody and that video
13 of MWAA P.D. officers watching a video of the incident
14 be placed into an evidence chain of custody as well.

15 Passenger Linlor again requested that MWAA
16 P.D. place TSO Polson under arrest for felony sexual
17 assault. MWAA P.D. again denied the request. Passenger
18 Linlor then stated that he -- that if they would not
19 place him under arrest, then he would be placing TSO
20 Polson under citizen's arrest for felony sexual assault.
21 MWAA P.D. again denied his request.

22 Linlor requested the names of the MWAA P.D.

1 officers and stated that he would be filing a complaint
2 for failure to perform their duties. Linlor also
3 requested my name. I wrote Supervisory Officer Whetsell
4 on the card form.

5 Federal security director, FSD Scott Johnson,
6 had arrived on scene and spoke with Passenger Linlor;
7 however Linlor stated he did not want -- he would not be
8 speaking with FSD Johnson.

9 MWAA P.D. stated that they -- they were
10 complete in their work with Passenger Linlor. I
11 informed Passenger Linlor that I would then have to
12 complete the screening that had not been completed
13 earlier. I advised Linlor of the need for a standard
14 pat down. I gave Linlor all of his advisements prior to
15 the beginning of the pat down. I asked if he had -- I
16 asked if he had any sensitive or sore areas, and Linlor
17 stated that his shoulder was sore and he could not lift
18 his arm above 30 degrees. I asked if Linlor would like
19 a private screening, and he declined.

20 I performed a standard pat down and tested my
21 gloves using explosive trace detection, ETD machine.
22 There was no alarm. The passenger was cleared and

1 allowed to continue to his flight.

2 As stated by Supervisory Transportation
3 Security Officer William Whetsell.

4 Q Do you believe that your statement as you've
5 written it here is accurate and complete?

6 A To the best of my knowledge, yes.

7 Q Is there anything that you would normally
8 include that you upon reflection would have not
9 included?

10 A Not that I'm aware of.

11 Q Based upon your statement, did I ask at the
12 time that the videos be placed into an evidence chain of
13 custody and that the video of MWAA P.D. officers
14 watching the video of the incident be placed into an
15 evidence chain of custody as well?

16 A It does state in my statement that you
17 requested -- or you asked that the videos be placed into
18 an evidence chain of custody and that the video of the
19 MWAA P.D. officers watching the video of incident be
20 placed into an evidence chain of custody as well.

21 Q Where were you standing when I said that? How
22 far away?

1 A I don't want to speculate. I can't recall
2 exactly.

3 Q Approximately where were you standing in
4 relation to -- I'm not talking about speculate. You
5 must have an opinion. Were you -- were you -- do you
6 think you were about 6 feet away? Do you think you were
7 about 20 feet away?

8 A To the best of my recollection, again within
9 15 feet.

10 Q Within 15 feet?

11 A Within 10, 15 feet.

12 Q Were we having a direct conversation?

13 A I can't recall if you made these statements
14 directly to me.

15 Q Do you think that the statements in this -- in
16 your -- right up here -- would have been made at
17 significantly different times or were they kind of
18 grouped together right after the incident?

19 A I don't recall exactly when I wrote the
20 statement.

21 Q Sorry. That wasn't my question. I was asking
22 about when the incidents described in the statement

1 occurred, but let me -- let me --

2 A I'm sorry.

3 Q Do you want to answer -- try answering that;
4 otherwise --

5 A Can you repeat the question for me, please?

6 CAPTAIN LINLOR: Can you please repeat the
7 question, Court Reporter?

8 (Thereupon, the court reporter read back the
9 requested testimony.)

10 A So you're asking did all of this occur around
11 the same time?

12 BY CAPTAIN LINLOR:

13 Q Yes, sir.

14 A Yes.

15 Q Okay.

16 A I did state times in here at certain points.

17 Q Okay. Do you recall that you moved away from
18 me during this time?

19 A I don't recall.

20 Q Were you initially in my vicinity at the
21 start -- when you first turned around?

22 A Yes.

1 Q About how far away?

2 A Within 10 feet.

3 Q Okay. Do you recall moving away afterwards?

4 A I don't recall.

5 Q Do you recall where Mr. Polson was?

6 A At what point?

7 Q At that same point in time when you turned
8 around.

9 A Within 5 feet of you.

10 Q Had he just finished doing the pat down on me
11 or the pat down at the point there was an issue?

12 A To the best of my knowledge.

13 Q Is that a yes to the best of your knowledge?
14 Sorry.

15 A Yes, to the best of my knowledge.

16 Q Okay. So he was no further away from me than
17 you were? You were both probably the same distance or
18 similar distance?

19 A I was a little further away.

20 Q A little further away?

21 A (Nods head.)

22 Q Do you recall me speaking at a very soft voice

1 or speaking at a fairly loud voice and being easy to
2 understand and hear?

3 A I'm sorry, for --

4 Q I'm trying to -- I'm trying to see what your
5 recollection is, which is not listed here in your
6 write-up, of the level of voice that I was using, if I
7 was using a loud projected voice and trying to be well
8 heard or if I was speaking in a very soft voice that
9 would be difficult to hear. Do you recall which it was?

10 MR. SYLVERTOOTH: Form.

11 CAPTAIN LINLOR: How can I define, Counsel?

12 MR. SYLVERTOOTH: At what time? There is
13 multiple things in --

14 CAPTAIN LINLOR: It was right -- right after
15 the incident, at the time when he was writing this part
16 where he turned around.

17 MR. SYLVERTOOTH: Withdrawn.

18 CAPTAIN LINLOR: Withdrawn?

19 MR. SYLVERTOOTH: Yes. Sorry.

20 CAPTAIN LINLOR: Thank you. 207:49. I'm sure
21 you're keeping me honest. I'll try to help you, too.

22 A Are you asking me at the point where you

1 stated that --

2 BY CAPTAIN LINLOR:

3 Q I'm asking you was my voice loud or soft at
4 the time right after the incident?

5 A At the point where you stated sexual assault?

6 Q Yes, sir.

7 A It was loud enough that I could hear it.

8 Q You think it was loud enough that most people
9 in the vicinity could hear it?

10 A I don't recall.

11 Q Okay. Do you think most people in the
12 vicinity at that -- right after the incident could
13 probably hear my voice?

14 A I don't know.

15 Q Okay. You could hear my voice at the time.
16 Do you think that anyone else at the same distance would
17 likely be able to hear my voice at that same incident --
18 at that same time, time and place?

19 A Just for -- to make sure I'm understanding.
20 Would someone at the same distance away that I was --

21 Q Yes.

22 A -- be able to hear what I heard?

1 Q Yes, in your opinion.

2 A In my opinion, yes.

3 Q Do you think that -- have you known Mr. Polson
4 to have any hearing impediments or difficulties?

5 A Not to my knowledge.

6 Q Have you ever had him tell you that he could
7 not hear things that you were saying to him?

8 A Not to my knowledge.

9 Q Do you believe that Mr. Polson would likely
10 have heard the same things -- likely, have heard the
11 same things that I was saying to you?

12 A Most likely, yes.

13 Q Did I -- did I state that I was placing TSO
14 Polson under citizen's arrest for felony sexual assault?

15 A It's whatever I wrote in my statement. I
16 wrote that you stated that if they would not place --
17 "they" MWAA P.D. -- would not place him under arrest,
18 then you would be placing TSA Polson under citizen's
19 arrest for felony sexual assault.

20 Q Do you believe I actually used the words I
21 place you -- I invoke my right to place you under
22 citizen's arrest?

1 A I don't recall the exact words you used, sir.

2 Q Do you think it was always a future thing that
3 I will, I will, I will, place you, Mr. Polson, under
4 citizen's arrest or was it, I am placing you under
5 citizen's arrest, with some variation of the words?

6 A I don't recall. I stated in here that -- that
7 you stated that you would be placing TSO Polson under
8 citizen's arrest for felony sexual assault.

9 Q Do you believe that occurred?

10 A I don't know.

11 Q Do you believe that I stated that I was
12 placing him under citizen's arrest by any manner of
13 words?

14 A Again, I would have to refer you back to my
15 statement where it says if they would not arrest him,
16 then you would be placing TSA Polson under citizen's
17 arrest for felony sexual assault.

18 Q And I'm asking you then, based on that, based
19 on your recollection and what you just said at that time
20 and point, do you believe that I did so?

21 MR. SYLVERTOOTH: Form.

22 CAPTAIN LINLOR: How can I correct?

1 MR. SYLVERTOOTH: You can't correct any of
2 these questions as it relates to you asking him, did you
3 do -- actually do a citizen's arrest. I know you're
4 saying it's not a legal conclusion, but it's a legal
5 conclusion. So that's the objection.

6 CAPTAIN LINLOR: Okay.

7 BY CAPTAIN LINLOR:

8 Q Did I use the word -- did I use the words
9 stating that I am placing Mr. Polson under citizen's
10 arrest at that time and place?

11 A I can't recall any exact words, sir.

12 Q I'd like to go over to the statement from
13 Scott Johnson, and --

14 COURT REPORTER: Do you know what the exhibit
15 is?

16 CAPTAIN LINLOR: I don't, I'm sorry.

17 MR. SYLVERTOOTH: I do.

18 CAPTAIN LINLOR: Counsel is better at this
19 than me.

20 MR. SYLVERTOOTH: Scott Johnson is Exhibit 4.

21 CAPTAIN LINLOR: Exhibit 4?

22 MR. SYLVERTOOTH: Correct.

1 BY CAPTAIN LINLOR:

2 Q Okay. So if you could look at -- and this was
3 already noted for the record that this page has a lot of
4 different colors on it.

5 A Yes, sir.

6 Q Look down at the blue teal paragraph, about
7 the one, two, three, four, five, six, seventh paragraph
8 down, starting with MWAA.

9 A Yes.

10 Q Can you read that full paragraph, please.

11 A Yes, sir.

12 MWAA P.D. refused to arrest the TSA officer.
13 So the passenger said words to the effect, fine, if you
14 will not arrest him, I invoke my right to make a
15 citizen's arrest. I want you to arrest that TSO
16 officer. MWAA P.D. said no.

17 Q So you understand that this was a summary
18 written by Scott Johnson on the 14th of March 2016,
19 which is on the next page?

20 A Yes.

21 Q Do you agree?

22 A Do I agree to what?

1 Q That Scott Johnson wrote this?

2 MR. SYLVERTOOTH: Form.

3 BY CAPTAIN LINLOR:

4 Q Do you agree that Scott Johnson wrote the
5 write-up here?

6 MR. SYLVERTOOTH: Form.

7 BY CAPTAIN LINLOR:

8 Q This document was submitted by TSA
9 Bates-Stamped TSA 17, 17 and 18, as submitted on the
10 record by Scott Johnson. Do you believe that this TSA
11 document is legitimate in your opinion?

12 A I don't know.

13 Q Okay. Was Scott Johnson present at the time
14 of the incident?

15 A Based on my statement, it says: Federal
16 Security Director Scott Johnson had arrived on scene and
17 spoke with Passenger Linlor.

18 Q Do you believe based on his statement that he
19 was -- that he claimed that he was on site also at the
20 incident?

21 A If this is a statement from Scott Johnson --
22 it states, when I arrived I noticed an individual

1 standing by himself with three MWAA officers around him
2 in addition.

3 Q In the section in blue, does it state that I
4 was invoking my right to make a citizen's arrest?

5 A It states that the passenger said words to the
6 effect, fine, if you will not arrest him, I invoke my
7 right to make a citizen's arrest. I want you to arrest
8 that TSA officer.

9 Q Did -- based upon the information provided by
10 Mr. Johnson here, do you believe that I did utter the
11 words, I am invoking my right to make a citizen's
12 arrest?

13 A That's what this statement states.

14 Q Yes. Do you -- so does that help your
15 recollection because it seemed before that you were not
16 sure if I made that utterance or not, about making a
17 citizen's arrest. Does this help your recollection or
18 change your opinion?

19 A No. Again, I can't speculate on the exact
20 words used because I don't recall.

21 Q Do you believe -- do you believe that I
22 represented that it was my intent to make a citizen's

1 arrest?

2 A Again, in my statement, I stated that you
3 would be placing -- that you stated that you would be
4 placing TSO Polson under citizen's arrest for felony
5 sexual assault.

6 Q Were the MWAA police officers there at the
7 time?

8 A From my recollection.

9 Q Do you remember their names?

10 A I do not, sir.

11 Q Did -- and Mr. Polson was there at the same
12 time of the incident? He was there at the same time as
13 when the MWAA Police Department officers had arrived?

14 A I don't recall exactly where he was standing.

15 Q Okay. Was he in the vicinity?

16 A To the best of my recollection.

17 Q Was he still visible or was he around the
18 corner?

19 A I don't recall.

20 Q Do you believe that during this incident
21 Mr. Polson was free to leave the area?

22 A I don't -- I don't know.

1 Q Would -- if an incident like this had occurred
2 with you, would you have felt you were -- you needed to
3 stay there and see this through or that you were free to
4 leave?

5 MR. SYLVERTOOTH: Form.

6 BY CAPTAIN LINLOR:

7 Q If an incident -- if this incident was
8 occurring to you -- with you, in your opinion, would you
9 have felt obligated to stay there?

10 MR. SYLVERTOOTH: Same objection.

11 BY CAPTAIN LINLOR:

12 Q You can answer.

13 MR. SYLVERTOOTH: I'm talking to the court
14 reporter. Yes, you need to answer that question.

15 THE WITNESS: My apologies. You said I can
16 answer the question?

17 MR. SYLVERTOOTH: You need to answer the
18 question.

19 THE WITNESS: My apologies. I don't want to
20 do anything wrong here.

21 A I don't know. I've never -- I've never
22 occurred -- encountered this situation other than with

1 this situation. So I don't know how I would react to
2 this situation.

3 BY CAPTAIN LINLOR:

4 Q Are there a lot of cameras in the checkpoint
5 area?

6 A There are cameras in the checkpoint area.

7 Q Do you have any idea how many there are, how
8 many cameras there are?

9 A No.

10 Q Would it be reasonable in your opinion to
11 assume that there -- that most every activity is
12 captured on video, some angle of? It.

13 MR. SYLVERTOOTH: Form.

14 BY CAPTAIN LINLOR:

15 Q Answer the question.

16 MR. SYLVERTOOTH: Yes. Can I just say this?

17 CAPTAIN LINLOR: Yes.

18 MR. SYLVERTOOTH: Unless I instruct you not to
19 answer, you are to answer the question.

20 THE WITNESS: My apologies. I had never --

21 MR. SYLVERTOOTH: That way we'll make it
22 clear.

1 THE WITNESS: First time, so I'm trying to
2 figure this out.

3 MR. SYLVERTOOTH: I'm just closing my eyes so
4 I can concentrate on the question.

5 A Please repeat --

6 CAPTAIN LINLOR: I thought I was giving you a
7 headache.

8 MR. SYLVERTOOTH: No.

9 (Thereupon, the court reporter read back the
10 requested testimony.)

11 A In my opinion, most activities is captured
12 in --

13 BY CAPTAIN LINLOR:

14 Q At the security checkpoint?

15 A At the checkpoint at some -- at some level.

16 Q Were you aware of a video of this incident?

17 A I don't know. I don't know if there's a video
18 of the incident.

19 Q Did a -- you said before that there were two
20 TSMs who had shown up; is that correct?

21 A That's correct.

22 Q Did you ever see a third TSM?

1 A I don't recall.

2 Q Let's go over to Exhibit 7, which is the
3 Divestiture Officer OJT Checklist. Do you know why the
4 first three pages of this are blank?

5 A I don't know.

6 Q Do you think that blank documents would be
7 responsive to the subpoena?

8 MR. SYLVERTOOTH: I'm going to object to that.
9 Where do you see the first three pages are blank?

10 CAPTAIN LINLOR: There's no -- there is no
11 review of task, meet standards columns, while the other
12 pages have dates in there.

13 MR. SYLVERTOOTH: I just want to make the
14 record clear.

15 CAPTAIN LINLOR: You bet. You bet. They're
16 not -- they're not blank sheets.

17 MR. SYLVERTOOTH: Yes.

18 CAPTAIN LINLOR: Fair enough, Counsel.

19 A I'm sorry, can you repeat the question.

20 BY CAPTAIN LINLOR:

21 Q There is no -- there are no -- do you agree
22 that there are no dates in the review of tasks or meet

1 standards columns on the first three pages of this
2 exhibit?

3 A I agree that there are no dates in those
4 columns on page 1, 2, and 3.

5 Q And would that be in line -- do you -- do you
6 have to complete checklists like this as a supervisor?

7 A I personally do not complete these checklists.

8 Q Who does complete these checklists?

9 A I don't know. I can't say.

10 Q Does it look like based on the TSO ID that
11 either Cynthia Manning or Jermaine Tyrell would have
12 completed this checklist?

13 A Based on what it says here, it does have their
14 names on the document.

15 Q How does this document address the pressure
16 used during a pat down?

17 A Are we talking about the document as a whole
18 or specifically the first three pages?

19 Q The first three pages. Good question. Let's
20 try the first three pages to start. We'll eat the
21 elephant.

22 CAPTAIN LINLOR: Could you read back my

1 question, please.

2 (Thereupon, the court reporter read back the
3 requested testimony.)

4 A In the first three pages I do not see anything
5 that refers to pressure.

6 BY CAPTAIN LINLOR:

7 Q Do you see anything in the first three pages
8 related to excessive force?

9 A No.

10 Q Do you think that based upon the subpoena, the
11 first three pages are responsive to the subpoena?

12 A I don't --

13 MR. SYLVERTOOTH: Go ahead and answer.

14 A I don't know.

15 BY CAPTAIN LINLOR:

16 Q On Bates 146, two more pages in, past the
17 first three pages, there's some redacted areas. Do you
18 see those?

19 A I see them.

20 Q Do you know what is redacted?

21 A I don't.

22 Q Do you know how it applies to SSI?

1 A I don't know the words that are redacted.

2 Q Do you see anything on page -- on the previous
3 page, 145, anything related to excessive force and
4 pressure?

5 A 145, no.

6 Q Okay. On the last row of 145, can you read
7 that last paragraph in the TSO task section, starting
8 with what is in paragraph B, the last row?

9 A Use a hands-off demonstration of the sensitive
10 areas search procedures and include an advisement that
11 it will be necessary to touch sensitive areas of the
12 body and that the back of the hand will be used. For
13 males, this includes the groin and buttocks. For
14 females, this includes the groin, buttocks, and breasts.

15 Q Is the groin the same as the testicles in your
16 opinion?

17 A I would say the testicles are included in the
18 groin area.

19 Q So you don't believe that the testicles were
20 necessarily excluded intentionally, that they would be
21 included and should be included as a sensitive area as
22 being described here?

1 A From my understanding that would be included.

2 Q Is there -- this is the hands-off

3 demonstration portion. Would there be -- and we'll be

4 looking more at the hands-off demonstration portion.

5 But is there any part of the hands-off demonstration

6 portion when this is being discussed for TSOs that they

7 should be careful about excessive force during pat

8 downs?

9 A I don't see it here.

10 Q You took this training as well as administered

11 these checklists; correct?

12 A I have taken this training.

13 Q Have you as a lead helped to administer any of

14 these checklists?

15 A I don't recall.

16 Q Have you ever completed a checklist?

17 A I don't recall specifically doing this

18 checklist.

19 Q Have you ever -- do you complete checklists as

20 part of a supervisor activity?

21 A Are you referring to this checklist

22 specifically?

1 Q In general, do you complete -- do you complete
2 OJT checklists as part of your supervisor activities?

3 A I don't complete these checklists.

4 CAPTAIN LINLOR: Can you read back my
5 question, please.

6 (Thereupon, the court reporter read back the
7 requested testimony.)

8 A On occasion we complete supervisory OJT
9 checklists that are not the same as this.

10 BY CAPTAIN LINLOR:

11 Q Who is "we"?

12 A Supervisors. I apologize.

13 Q Do you?

14 A Yes, I do as a supervisor complete
15 checklists -- supervisory checklists that are not --

16 CAPTAIN LINLOR: Is that your computer?

17 MR. SYLVERTOOTH: That's not in this room.

18 A -- that are not the same as this checklist.

19 BY CAPTAIN LINLOR:

20 Q Do you know of any other checklists that
21 address force or excessive force used during pat downs?

22 A I'm not aware of anything of that nature.

1 Q Have you ever seen anything of that nature on
2 any checklist?

3 A I cannot recall anything.

4 Q Has excessive force or force used during pat
5 downs ever been discussed in any of your training?

6 A The amount of force used has been discussed,
7 and it's the information that's already been provided to
8 you here, using enough force to ensure that there are no
9 prohibited items.

10 Q How has excessive force been measured or --
11 has excessive force ever been defined by TSA?

12 A I don't know.

13 Q Has it ever been defined for you?

14 A Not to my recollection.

15 Q Have you ever heard of any measures of
16 excessive force?

17 A Not to my recollection.

18 Q Isn't there a risk without a measure in your
19 opinion that you wouldn't know when you crossed the
20 line?

21 MR. SYLVERTOOTH: Form.

22 CAPTAIN LINLOR: What would you like to better

1 define, Counsel?

2 MR. SYLVERTOOTH: It's speculation. You're
3 asking for his opinion.

4 CAPTAIN LINLOR: I'll live with that.

5 BY CAPTAIN LINLOR:

6 Q Could you please answer the question? We can
7 repeat the question if you'd like.

8 A Please.

9 (Thereupon, the court reporter read back the
10 requested testimony.)

11 A Is there a risk? Yes.

12 BY CAPTAIN LINLOR:

13 Q What is the risk?

14 A As you stated, that you wouldn't know when you
15 crossed the line.

16 Q What could be the consequence?

17 A I don't know --

18 MR. SYLVERTOOTH: Form.

19 A -- what the consequence is.

20 BY CAPTAIN LINLOR:

21 Q Is the risk that you -- you said that the risk
22 is that you cross the line into excessive force;

1 correct?

2 A I stated that there are -- there is a risk
3 that you would not know.

4 Q Okay. And is the consequence that a passenger
5 could be injured?

6 A I can't state specifically that that would
7 happen.

8 Q Do you have an opinion?

9 MR. SYLVERTOOTH: Form.

10 A I don't really have an opinion or not.

11 BY CAPTAIN LINLOR:

12 Q Do you believe that excessive force can cause
13 injuries in your opinion, in general?

14 MR. SYLVERTOOTH: Form.

15 A In general, excessive force, not specific to
16 this.

17 BY CAPTAIN LINLOR:

18 Q In general, can excessive force cause
19 injuries?

20 A Excessive force can cause injuries.

21 Q Can excessive force -- is the -- are the
22 injuries that excessive force could cause, could that

1 include injuries to a passenger's genitals?

2 MR. SYLVERTOOTH: Form.

3 A I don't know.

4 BY CAPTAIN LINLOR:

5 Q Do you believe that a passenger's genitals
6 would be excluded from being able to be -- to have -- in
7 your opinion, to have injuries from excessive force?

8 MR. SYLVERTOOTH: Form.

9 A I don't believe that genitals would be
10 excluded.

11 BY CAPTAIN LINLOR:

12 Q Do you use social media?

13 A I do.

14 Q What social media do you use?

15 A I use Facebook. I have a LinkedIn account. I
16 have a Snapchat account.

17 Q Anything else?

18 A Not that I can recall.

19 Q Are you Facebook friends with any other TSA
20 agents or former TSA agents?

21 A Yes.

22 Q With whom?

1 A There are a number of them.

2 Q How about how many?

3 A I don't know the answer to that, sir.

4 Q In your opinion, do you think it's more than
5 10, more than 100?

6 A I can't -- I don't know.

7 Q Are you friends on Facebook with Michael
8 Polson?

9 A I believe so.

10 Q When did you -- however it works -- friend
11 each other or friend him, he friended you?

12 A I don't recall.

13 Q Do you believe it was a while ago or recently?

14 A I don't -- I don't recall.

15 Q Did you -- do you have more than one phone
16 number that you give out to colleagues?

17 A No.

18 Q Would a colleague ever have a cell phone of
19 yours and a desk phone?

20 A I don't have a specific desk phone.

21 Q Has Michael Polson ever had, to your
22 knowledge, your cell phone number?

1 A I believe so.

2 Q If he lost your cell phone number, could he
3 Facebook you -- if there's a messaging service on
4 Facebook -- and ask you for it?

5 A I suppose he could.

6 Q Has he?

7 A I don't recall.

8 Q If someone were to ask you for your cell phone
9 number on Facebook, is that the kind of thing you
10 typically would remember?

11 A I don't know.

12 Q Has anyone ever asked you for your phone
13 number on Facebook?

14 A I don't recall.

15 Q Have you ever traded text messages with
16 Michael Polson?

17 A I think so. I don't remember.

18 Q If you had traded text messages with Michael
19 Polson, would they have been relevant to this case?

20 A I don't know.

21 MR. SYLVERTOOTH: Form.

22 CAPTAIN LINLOR: What could be clarified, sir?

1 MR. SYLVERTOOTH: Relevancy to this case is a
2 legal concept.

3 CAPTAIN LINLOR: Okay. I'm trying to help,
4 even though you don't win for anything.

5 BY CAPTAIN LINLOR:

6 Q Did you -- have you traded text messages about
7 this case with anyone?

8 A Not to my knowledge.

9 Q How would you not -- how would you trade text
10 messages and it not be to your knowledge?

11 A I'm sorry. I don't recall. I don't remember.

12 Q I was going to ask you if you were -- if there
13 was a sleep disorder or --

14 A I don't remember. I'm sorry.

15 Q Okay. Is there a process that the TSA has
16 when there are allegations of sexual assault or any
17 injury by a passenger?

18 A I'm sorry, I'm -- could you repeat that for
19 me?

20 CAPTAIN LINLOR: Court reporter?

21 (Thereupon, the court reporter read back the
22 requested testimony.)

1 A It's not -- we have a process, but not
2 specific for that.

3 BY CAPTAIN LINLOR:

4 Q Is that process -- can I see the subpoena
5 please, if you have it there? It's underneath the
6 pages.

7 Would that process be related to excessive
8 force from injuries?

9 A I don't know.

10 Q Could that process, in your opinion, be
11 related to allegations of excessive force?

12 MR. SYLVERTOOTH: Form.

13 A I don't know.

14 BY CAPTAIN LINLOR:

15 Q The procedures that you talked about that you
16 just mentioned, are those procedures here today in the
17 documents in front of you? Not -- I'm sorry, in the
18 ones that were just produced by counsel today, not all
19 of the -- not going through every paper you --

20 MR. SYLVERTOOTH: Well, to be even clearer,
21 are you talking about the documents that was produced in
22 reference to the subpoena issued to Mr. Whetsell?

1 CAPTAIN LINLOR: Yes, Counsel. Thank you.

2 MR. SYLVERTOOTH: So for the record, that's
3 Exhibits 7, 8, and 9.

4 BY CAPTAIN LINLOR:

5 Q Do you see -- Mr. Whetsell, do you see the
6 documents that you're referring to, that the procedures
7 that TSA would follow and the allegations of excessive
8 force, do you see those procedures in the documents that
9 you have in front of you?

10 A No.

11 Q What would -- would there be a training course
12 or a name to those procedures where we would find them?

13 A We would write an incident report.

14 Q And where would it talk about the procedures
15 in case of an allegation of excessive force?

16 A It's not -- it's just a report that we fill
17 out stating what happened. That's the only procedure
18 that there is. You write the report.

19 Q Okay. What would be -- so when you write a
20 report, are there activities that occur after writing a
21 report?

22 MR. SYLVERTOOTH: Form.

1 BY CAPTAIN LINLOR:

2 Q When you write a report -- did you write a
3 report in this case --

4 A I don't recall. I wrote a statement, I know
5 that.

6 Q You wrote a statement. Did it seem to you
7 like a pretty serious allegation?

8 A I would say it seems like a serious
9 allegation.

10 Q Did you see if anybody wrote a report on this
11 for follow-up with TSA?

12 A I don't recall.

13 Q Is that something you would normally be aware
14 of?

15 A I don't know of all the reports that get
16 written.

17 Q In this particular incident, not looking for
18 all of TSA --

19 A Right.

20 Q -- in this particular incident, would you be
21 aware, as Mr. Polson's supervisor, if there would have
22 been a report written that could be followed up

1 regarding an allegation of sexual assault?

2 A I don't know. Again, I don't recall if a
3 report was written.

4 Q As Mr. Polson's supervisor wouldn't you be the
5 person most likely to know if such a report was written?

6 A It's possible. I don't recall.

7 Q Have you ever written up a report for
8 follow-up action with Mr. Polson?

9 A For -- I'm sorry?

10 Q Have you ever written any reports for
11 follow-up action with Mr. Polson?

12 A I don't -- I don't recall specifically writing
13 one for Mr. Polson.

14 Q Has Mr. Polson ever received any corrective
15 guidance from you when you were his supervisor at TSA?

16 A Corrective guidance?

17 Q Yes.

18 A I don't recall ever giving him corrective
19 guidance.

20 Q Did Mr. Polson ever received any awards from
21 you -- did Mr. Polson receive any awards that you were
22 aware of at TSA?

1 A I don't recall.

2 Q Did Mr. Polson -- are you aware if Mr. Polson
3 received any award as a result of this incident?

4 A I don't recall. I don't know.

5 Q If Mr. Polson received an award, a cash award
6 related to this incident, would you be informed of that?

7 A Not always.

8 Q Did Mr. Polson ever discuss any cash award
9 with you?

10 A I don't recall.

11 Q How frequent is it for TSOs or other TSA
12 employees to receive cash awards?

13 MR. SYLVERTOOTH: Form.

14 A I can't speculate on the frequency. I know it
15 occurs, but I wouldn't be able to tell you the frequency
16 of which it happens.

17 BY CAPTAIN LINLOR:

18 Q Have you ever received a cash award?

19 A I have.

20 Q For what?

21 A A number of things. I don't recall.

22 Q What was the most recent one?

1 A The most recent one I can recall was receiving
2 an award for being part of the safety action team. It
3 was a group award.

4 Q What was the most recent individual award that
5 you received?

6 A I don't recall.

7 Q How much was the group award for the money,
8 about?

9 A I don't recall exactly.

10 Q Wouldn't it be logical that in your opinion
11 that if he received an award, you would want to try to
12 remember what he did so you can get more money the next
13 time, too?

14 MR. SYLVERTOOTH: Form.

15 CAPTAIN LINLOR: Withdraw that.

16 BY CAPTAIN LINLOR:

17 Q Are you familiar with the mats, the floor mats
18 with the feet on them that passengers stand on?

19 A I'm familiar with the mats that we have on the
20 floor.

21 Q Do you think that the spacing of the feet on
22 the mats is random or intentional?

1 A I don't know the answer to that.

2 Q Has anyone ever told you that they were an
3 optimum or not -- or just an average?

4 A I've never been given direct guidance on what
5 they are, at least not to my recollection.

6 Q Do you typically have passengers stand on the
7 feet?

8 A Typically.

9 Q When would you not have passengers stand onto
10 the feet on the mat?

11 A It's dependent on the passenger's body form.

12 Q If someone is usually larger size, you would
13 have them stand differently?

14 MR. SYLVERTOOTH: Form.

15 BY CAPTAIN LINLOR:

16 Q What circumstances would you have them stand
17 differently on the mat?

18 A I can't specifically think of a time when you
19 would do that.

20 Q Have you ever had someone -- a passenger that
21 you were screening, have you ever had someone widen
22 their stance when they were -- after they had already

1 stepped onto the footprints?

2 A I can't recall a specific incident.

3 Q Is it common that you would -- that you have
4 asked passengers to widen their stances when they
5 originally stepped on the footprints?

6 A Is it common for me?

7 Q For you, I'm sorry. Yes.

8 A I would say probably not.

9 Q I'm sorry, I couldn't understand you.

10 A I would say, no, it would not be a common
11 practice of mine.

12 Q As a non common practice would it kind of
13 stand out in your mind if you had asked someone, oh, I
14 had to do this or this was very unusual?

15 MR. SYLVERTOOTH: Form.

16 A I wouldn't say it's unusual. I don't -- I
17 don't perform pat downs all the time.

18 BY CAPTAIN LINLOR:

19 Q How frequently do you perform pat downs?

20 A I don't know the answer to that.

21 Q As a percentage of your duty tasks for TSA,
22 what percentage of them do you estimate is from you

1 performing pat downs?

2 A I wouldn't be able to speculate a percentage.

3 Q In your opinion, do you think it is a low
4 percentage or a high percentage?

5 A Relative to 100 percent, I don't -- I can't
6 answer that because I don't know all the times I've
7 performed pat downs as supervisor.

8 Q How long have you been a supervisor?

9 A Since December of 2015.

10 Q Okay. Did you perform a pat down on me on 10
11 March 2016?

12 A Yes.

13 Q Have you performed pat downs on other
14 passengers since then?

15 A Yes.

16 Q Do you recall how often -- how many times
17 you've performed pat downs since then?

18 A No, I don't recall how many times.

19 Q Have you ever been alleged to have used
20 excessive force?

21 A Not to my recollection.

22 Q I'd like to pull up evidence Number 5, which

1 is the statement from Susan Callaghan. This is a
2 statement that TSA submitted as part of the required
3 documents from Susan Callaghan dated March 18th, 2016.
4 Mr. Whetsell, can you read out loud the statement,
5 please, in its entirety?

6 A In its entirety?

7 Q Yes.

8 A On Thursday, March 10th, 2016, at
9 approximately 11:55, I, TSM Susan Callaghan, responded
10 to a call at lane 50/51 for an unruly passenger. When I
11 arrived, I introduced myself to the passenger and asked
12 if there was something I could do to assist him.
13 Passenger Linlor stated that he had been sexually
14 assaulted by Officer Polson. I was told by STSO William
15 Whetsell that the passenger had requested MWAA and that
16 STSO Whetsell had made the request through ICC, the
17 Incident Coordination Center.

18 TSM Johannes arrived at lane 50/51 a moment
19 after I did and since the passenger was berating the
20 officer, TSM Johannes asked Officer Polson to step away
21 from the area. Passenger Linlor objected to this
22 because he did not want Officer Linlor to be coached on

1 what his responses to law enforcement should be.

2 TSM Johannes stated that Passenger Polson --
3 to Passenger Polson that he was not having his officer
4 berated for performing his job, that Mr. Polson could
5 speak with him, TSM Johannes.

6 Mr. Polson stated that he did not wish to
7 speak to TSM Johannes and wanted the officer to stay
8 where he was. I stated to Mr. Polson that when law
9 enforcement arrived, that they would speak to him -- or
10 speak with all involved parties -- or all involved
11 separately. Excuse me. So it would be best to have
12 Officer Polson step away but stay in view. Mr. Linlor
13 concurred that this was an acceptable solution.

14 MWAA, Metropolitan Washington Airport
15 Authority police officers arrived about 12:00. I spoke
16 with Officer Mitchell to explain the situation. Officer
17 Mitchell then spoke with Mr. Carlson and her partner
18 spoke with Officer Polson. TSM Johannes and the officer
19 went to the manager's office to review CCTV.

20 Officer Mitchell goes to the office to review
21 what was on camera. I entered the room after both
22 officers had viewed the video. The officers conferred

1 with each other and concurred there was -- there had not
2 been an assault. There had been no assault committed.

3 The MWAA officers then went back out to lane
4 50/51 and stated to Mr. Linlor that there was no
5 violations, that he could be seen -- that could be seen,
6 and they would not be charging Officer Polson.

7 Mr. Linlor stated he wanted to press charges, and that
8 MWAA officers told him he would have to go to the
9 courthouse and file a complaint to press charges.

10 Mr. Linlor asked MWAA for the video, and they stated
11 they did not have it. They viewed TSA's cameras.

12 FSD Scott Johnson arrived at this time and
13 spoke with Mr. Linlor. Mr. Linlor stated that he did
14 not want to speak with FSD Johnson.

15 During this time I was still standing by the
16 ETD at lane 50/51 with TSM Flick, who had arrived about
17 the same time as the FSD. While Mr. Linlor spoke with
18 FSD Johnson, he requested that -- he requested to make a
19 citizen's arrest of Officer Polson. MWAA declined to
20 make this arrest.

21 FSD Johnson concluded his conversation and
22 walked to another area of the checkpoint. Mr. Linlor

1 was advised that he would still need to finish the
2 screening process. STSO Whetsell then proceeded to
3 conduct a standard -- or to conducting a standard pat
4 down.

5 While STSO Whetsell was conducting the
6 standard pat down, Mr. Linlor asked TSM Flick for the
7 video information, to which she replied that she did not
8 have the information. STSO Whetsell completed the pat
9 down and told Mr. Linlor he was free to continue on with
10 his travel.

11 Mr. Linlor started gathering his belongings
12 and asked TSM Flick to write down her contact
13 information. TSM Flick stated to Mr. Linlor that she
14 was not writing down anything. Mr. Linlor then stated,
15 why, are you illiterate. Mr. Linlor then asked me for
16 the video, and I told him we did not have that
17 information.

18 TSM Flick and I then walked away from the
19 area. When Mr. Linlor was leaving the checkpoint, he
20 walked over and requested my business card, which I gave
21 him.

22 Would you like me to read the next page as

1 well, sir?

2 Q Yes, please.

3 A On Tuesday, March 15, 2016, I received a phone
4 call at approximately 9:40. The caller identified
5 himself as Mr. Linlor. Mr. Linlor stated that he was
6 putting me on notice, that he had spoken to his counsel
7 and was requesting all video. Mr. Linlor then asked if
8 I knew the fax number on my business card was incorrect,
9 and I stated I did not, but since I was not on duty I
10 could give him the receptionist's number and he could
11 request to speak with who he wanted and get a fax
12 number.

13 I then concluded the call with Mr. Linlor.

14 Q Did you read in the statement that you -- did
15 you notice in the statement you just read that I asked
16 MWAA for the video and that they said they did not have
17 it, they viewed TSA's cameras? That's in the middle of
18 the -- about two-thirds of the way down, the second
19 paragraph with the red brackets.

20 A Mr. Linlor asked MWAA for the video, and they
21 stated they did not have it. They viewed TSA's cameras.

22 Q Are those cameras TSA's cameras?

1 MR. SYLVERTOOTH: Form.

2 A I don't know the answer to that.

3 BY CAPTAIN LINLOR:

4 Q Are the cameras at the security checkpoint
5 where this incident occurred TSA's cameras?

6 A I don't know who they belong to.

7 Q Have you ever had to review or obtain video
8 recordings for any purpose?

9 A I have viewed videos on the -- on the camera
10 system.

11 Q In what situation was that?

12 A I reviewed it on a number of instances.

13 Q What incidents triggered you needing to review
14 video recordings?

15 A Sometimes accusations of theft. That would be
16 one I could think of that I would need to review the
17 camera for.

18 Q How many times since you have been hired by
19 TSA have you gone to look at the video recordings?

20 A I don't know the answer to that.

21 Q Is it a frequent activity?

22 A It occurs fairly regularly, not particularly

1 with incidents.

2 Q Not particularly with what?

3 A Incidents.

4 Q Incidents, okay. Is the allegation of sexual
5 battery -- felony sexual battery an incident?

6 MR. SYLVERTOOTH: Form.

7 BY CAPTAIN LINLOR:

8 Q Do you -- do you believe that the events
9 surrounding this incident are what you are calling it --
10 what you're calling an incident?

11 A Yes, I would refer to this as incident.

12 Q Did you review the video from this incident?

13 A I did not.

14 Q Why did you not review the video from the
15 incident?

16 A It wasn't my place in this incident.

17 Q Whose place was it to review the video in this
18 incident?

19 A I don't know the answer to it.

20 Q Did you see anyone else reviewing the video?

21 A I did not see anyone else review the video.

22 Q Where is the place that someone goes to review

1 the video?

2 A We have a number of locations where we could
3 review a video.

4 Q So a bunch of work stations at different
5 places?

6 A There are a few work stations.

7 Q How many are you aware of as far as places
8 where someone could go to review a video?

9 A Five.

10 Q Five. Do you think -- how sure are you of
11 that number?

12 A I can only think of five at the moment.

13 Q How long did you work in that area or do you
14 still work in the area?

15 MR. SYLVERTOOTH: Is that the completion of
16 your question before I object?

17 CAPTAIN LINLOR: Let me rephrase it.

18 MR. SYLVERTOOTH: Let me -- let me see if I
19 can streamline this. Are you talking about the area of
20 lane 50 and 51, where the incident occurred --

21 CAPTAIN LINLOR: Yes.

22 MR. SYLVERTOOTH: -- between you and Mr.

1 Polson?

2 CAPTAIN LINLOR: Yes.

3 Withdrawn in that case if you didn't object?
4 Can you even throw it out there yet? But thank you.

5 MR. SYLVERTOOTH: I was trying to streamline
6 that.

7 CAPTAIN LINLOR: Thank you for that. I
8 appreciate it.

9 A Can you repeat that full --

10 BY CAPTAIN LINLOR:

11 Q Unlikely but maybe Janie could -- maybe the
12 court reporter can.

13 (Thereupon, the court reporter read back the
14 requested testimony.)

15 A In reference to the area -- the lane 50/51?

16 BY MR. LINLOR:

17 Q Yes.

18 A I do work in that area on occasions still.

19 Q Okay. So you believe you would have good
20 knowledge of the number of video recording locations;
21 correct?

22 A We're talking specific to that area?

1 Q To that -- specific to that area.

2 A Yes.

3 Q Are there any video recording location -- did
4 you see which direction the MWAA P.D. officer went to
5 review the video of the incident on the day in question?

6 A I don't recall exactly the direction they
7 walked off.

8 Q Do you recall generally the direction they
9 walked off?

10 A Generally, yes.

11 Q Generally what direction was that?

12 A Toward the supervisor desk.

13 Q Is there only one supervisor desk?

14 A At that particular checkpoint, yes.

15 Q At that particular checkpoint. You're all
16 helping me. I appreciate that. I'm trying to focus on
17 the topic here.

18 And so they went toward that specific
19 checkpoint. Were there -- are there other cameras that
20 are watching the watchers that are videoing the people
21 looking at the security video?

22 MR. SYLVERTOOTH: Form.

1 A I don't know the answer.

2 BY CAPTAIN LINLOR:

3 Q At the supervisory desk by lane 50/51, are
4 there video cameras that cover the desks for the
5 supervisors?

6 A I don't know all the cameras. I don't know.

7 Q In your opinion, would it make sense if there
8 were cameras watching the supervisor desk?

9 A The supervisor desk?

10 Q Yes.

11 A That would make sense.

12 Q Do you believe the cameras are operated by TSA
13 or MWAA, the security cameras at the checkpoint 50/51?

14 A I don't know who owns them.

15 Q Have you ever had to request that video
16 recordings be saved?

17 A I personally have not.

18 Q Do you know anyone whose had to request that
19 video recordings be saved?

20 A I know managers have.

21 Q So you consider yourself a supervisor, but not
22 a manager?

1 A I am a supervisory transportation security
2 officer.

3 Q But you don't consider yourself a manager;
4 correct?

5 A That's not my title.

6 Q Do you consider yourself a manager?

7 A I am a supervisor.

8 Q Do you manage people?

9 A I supervise people.

10 Q What are the differences in your opinion
11 between supervising and managing?

12 A My job is to supervise people.

13 Q What does someone do who manages people that
14 is different than what you do as a supervisor?

15 A I don't know.

16 MR. SYLVERTOOTH: Form.

17 BY CAPTAIN LINLOR:

18 Q Do you know -- what managers were responding
19 to this incident at the lane 51 on March 10?

20 A Based on what statement? I recall TSM Susan
21 Callaghan and TSM Carl Johannes arriving.

22 Q And those would be managers. Were any other

1 managers that you saw had responded?

2 A That I recall, no.

3 Q Do you recall seeing -- would FSD Johnson be
4 considered a manager?

5 A In title, no, not in my opinion.

6 Q Why would he not be in your opinion, why would
7 he not be considered a manager?

8 A In title.

9 Q Because the word manager is not in his title?

10 A Yes.

11 Q But would you disagree that he manages people?

12 A I don't know his job description, sir.

13 Q In your opinion, does an FSD manage people?

14 A I don't know.

15 Q When did you write your statement?

16 MR. SYLVERTOOTH: Form.

17 BY CAPTAIN LINLOR:

18 Q When did you write the statement for the
19 incident in question?

20 A I don't recall.

21 Q Who did you give the statement to or where did
22 you send it?

1 A I recall giving my statement to TSM Susan
2 Callaghan.

3 Q Do you think it was approximately during the
4 same month of March as the incident?

5 A I don't recall exactly when it was.

6 Q Have you written many statements like this of
7 alleged sexual assault?

8 A Of alleged sexual assault? No.

9 Q Does this one kind of stick out in your mind
10 in your opinion?

11 A It was a long time ago. I don't recall.

12 Q So it's now October 20th, 2017, and this was
13 March 10th, 2016. That's about year and a half?

14 A Correct.

15 Q Do you believe, based upon the statement that
16 you read, that I placed -- that I, the passenger, TSO
17 Polson under citizen's arrest?

18 MR. SYLVERTOOTH: Form.

19 BY CAPTAIN LINLOR:

20 Q Do you believe that I, as the passenger, said
21 the words or applied the meaning that I was placing him
22 under citizen's arrest?

1 MR. SYLVERTOOTH: Form.

2 A I can only tell you what is in the statements
3 here.

4 BY CAPTAIN LINLOR:

5 Q Do you believe that my statements reflect my
6 intent and action on that intent to place Mr. Polson
7 under citizen's arrest?

8 MR. SYLVERTOOTH: Form.

9 A In Exhibit 4 it states: So the passenger said
10 words to the effect, fine, if you will not arrest him, I
11 invoke my right to make a citizen's arrest. I want you
12 to arrest that TSA officer. MWAA P.D. said no.

13 BY CAPTAIN LINLOR:

14 Q Do you, as an anomaly of inclusion, do you
15 believe that TSA officers in your opinion can say no to
16 a citizen's arrest by a citizen?

17 MR. SYLVERTOOTH: Form.

18 A I don't know.

19 BY CAPTAIN LINLOR:

20 Q Do you believe that I said the words, I invoke
21 my right to place you, Mr. Polson, under citizen arrest,
22 or something to that effect?

1 A I don't know. I can only tell you what is in
2 the statement.

3 Q Do you believe the statement to be accurate,
4 the statement by Scott Johnson? That's the one you're
5 looking at, I believe?

6 A That's correct. I believe it's his statement.

7 Q Do you believe that he -- as much as his
8 statement aligns -- does his statement basically align
9 with yours?

10 MR. SYLVERTOOTH: Form.

11 BY CAPTAIN LINLOR:

12 Q Does the events listed on Mr. Johnson's
13 statement basically align with the events listed on your
14 statement?

15 A There are similar events in my statement and
16 his statement.

17 Q Did you notice any disparities of fact between
18 your statement and Mr. Johnson's statement?

19 MR. SYLVERTOOTH: Form.

20 A Not that I can see.

21 BY CAPTAIN LINLOR:

22 Q Okay. In a filing that you made with the

1 court, Mr. Whetsell, you gave the impression that I had
2 personally served you some papers for the notice for
3 this -- a notice for this deposition; is that correct?

4 A I don't have that document in front of me,
5 sir.

6 Q Do you recall signing any documents alleging
7 that I had -- that I had served you personally by myself
8 the notice of deposition?

9 A Again, I've signed documents. Exact
10 allegations of you coming to my house, I can't speak to
11 that. If you have --

12 Q Do you have people coming to your house very
13 often serving you papers, Mr. Whetsell?

14 A Not very -- recently.

15 Q Related to this case?

16 A Only related to this case.

17 Q So if you would have signed -- if you would
18 have alleged that I was the person serving you the
19 papers, it wouldn't have stuck out in your mind?

20 A I signed a statement stating that I believe it
21 may have been.

22 Q Do you believe that you were served in your

1 individual capacity or professional capacity?

2 MR. SYLVERTOOTH: Form.

3 BY CAPTAIN LINLOR:

4 Q Based on the documents you received?

5 A I don't have the documents in front of me. I
6 wouldn't be able to speak to that.

7 Q I think we can help you out there.

8 A Okay.

9 CAPTAIN LINLOR: This is already submitted,
10 the -- Plaintiff's Reply to TSA's motion to squash
11 subpoena. I'm not sure which number. I should have
12 written it down.

13 MR. SYLVERTOOTH: 6.

14 CAPTAIN LINLOR: 6, thank you. If we could --
15 I don't have an extra copy. I've already given them
16 over. If you can give the Deponent a copy to look at,
17 and we'll turn to page 22.

18 BY CAPTAIN LINLOR:

19 Q Looking at this, the copy -- included in page
20 22 is document number 139-1, that was filed in this
21 case. And below the case number on the right-hand side,
22 what is the title in bold print that is listed there,

1 please?

2 A Notice of deposition under FRCP 30, of
3 third-party William Whetsell, in his individual
4 capacity.

5 Q Do you believe that the words there indicate
6 that you were served in your individual capacity?

7 MR. SYLVERTOOTH: Form.

8 A This document states notice of deposition
9 under FRCP 30 of third-party William Whetsell, in his
10 individual capacity.

11 BY CAPTAIN LINLOR:

12 Q Did you notice that title before you wrote
13 your statement to the court?

14 A I don't recall.

15 Q Did you -- can you read the first sentence in
16 paragraph 4, please?

17 A Plaintiff hereby notices Mr. William Whetsell
18 that he will be deposed in this case in his individual
19 capacity, beginning at 2:00 p.m. at Casamo and --

20 Q That's good.

21 A Casamo.

22 Q That's good. That's enough.

1 So what words are in upper case in that
2 sentence that you just read?

3 A "In his individual capacity."

4 Q How many times was individual capacity listed
5 on this sheet so far? You read both of them, so I'm not
6 trying to make you look and find it.

7 A It also states it one more time.

8 Q Is there a third time?

9 A Under Michael Polson.

10 Q I was referring to you, fair enough. That
11 was -- that's because the case is against Michael Polson
12 in his individual capacity. I didn't think that -- all
13 of a sudden -- I didn't think that was the case.

14 So in the -- in the two sentences -- there was
15 two sentences where we have written in upper case
16 because it's not written in upper case?

17 A Correct.

18 Q And both of the two instances refer to a
19 deposition of you in your individual capacity; correct?

20 A The statement says, notice of deposition under
21 FRCP of third-party William Whetsell in individual -- in
22 his individual capacity.

1 Q So did you read this before you wrote your --
2 your notice back to the court claiming that you were not
3 served in your individual capacity?

4 MR. SYLVERTOOTH: Form.

5 BY CAPTAIN LINLOR:

6 Q Did the notice that you sent back to the court
7 state that I was -- that I had served you in your
8 individual -- in what you wrote -- not a legal
9 evaluation, but what you wrote, did your notice state
10 whether or not you had received a notice in your
11 individual capacity or professional capacity?

12 MR. SYLVERTOOTH: Form.

13 A I don't have that statement in front of me.

14 BY CAPTAIN LINLOR:

15 Q Did you think that -- did you try to verify
16 with your counsel -- I will not go there.

17 Did you try to verify with your counsel if you
18 had -- that this was something that was -- that was in
19 your individual capacity or not?

20 MR. SYLVERTOOTH: Form.

21 A I don't recall.

22 BY CAPTAIN LINLOR:

1 Q Who asked you to write a note to the court?

2 In this scenario, you wrote a note to the court --

3 sorry, let me rephrase.

4 In this scenario, you wrote a note back to the
5 court claiming that I had served you papers or attempted
6 to and that you felt this was improper. Again, as I
7 have read the statement from you. Who asked you to
8 write that statement?

9 A I don't recall writing a statement that you
10 served me paperwork.

11 Q Did you write a statement that was included in
12 a filing back to the court?

13 A There was a statement written back to the
14 court.

15 Q Did you write part of that statement?

16 A Yes.

17 Q Who asked you to write that statement?

18 A I don't recall.

19 Q Did you -- were you in fear from the person
20 who served you this notice?

21 A I'm sorry?

22 Q Were you in fear from the person who served

1 you this notice?

2 A Was I afraid of the person who served me this
3 notice?

4 Q Yes.

5 A No.

6 Q Did you feel that it was improper that you be
7 served this notice at your home?

8 A Yes.

9 Q Why?

10 A Because -- I don't know. I just -- I did not
11 think this was something that should come to me. I
12 work -- I work for TSA, and --

13 Q And what?

14 A I don't understand my individual capacity
15 here.

16 Q So did that make you angry?

17 A I don't recall.

18 Q Did you have any contact with anyone in the
19 preparation for this case?

20 MR. SYLVERTOOTH: Form.

21 BY CAPTAIN LINLOR:

22 Q Did you -- did you ever provide your answer

1 and phone number preparing documents for this -- for
2 submittals in this case?

3 MR. SYLVERTOOTH: Form.

4 CAPTAIN LINLOR: How can I help you, Counsel?

5 MR. SYLVERTOOTH: When you say "this case,"
6 this case is against Mr. Polson. He is not a defendant
7 in this case. Nothing has been filed in this case in
8 his individual capacity.

9 CAPTAIN LINLOR: I wasn't trying to suggest
10 that, so let me --

11 MR. SYLVERTOOTH: So we need that -- we need
12 that question to be clear so the record is clear, so he
13 is clear.

14 CAPTAIN LINLOR: Can you read back my last
15 question.

16 (Thereupon, the court reporter read back the
17 requested testimony.)

18 BY CAPTAIN LINLOR:

19 Q I will rephrase that.

20 For the case against Michael Polson in his
21 individual capacity, did you ever provide your phone
22 number or address to anyone preparing documents for the

1 case against Michael Polson?

2 A I don't -- I don't recall.

3 Q Were you ever asked to?

4 A Today.

5 Q Were you ever asked to other than today?

6 A I don't recall.

7 THE VIDEOGRAPHER: Excuse me, Captain, we're
8 going to have to change tapes in about five minutes.

9 CAPTAIN LINLOR: I think we will be able to
10 wrap up by then.

11 BY CAPTAIN LINLOR:

12 Q Were -- how did -- you were contacted by phone
13 regarding this case against Michael Polson, which TSA
14 parties have contacted you?

15 A I've spoken with Mr. Bryant. I contacted
16 Brian Noonan.

17 Q Did you give any of them your phone number?

18 A I don't recall.

19 Q Did they ever call you?

20 A Yes, so -- yes, they did call me.

21 Q So where do you think they got your phone
22 number?

1 A Caller I.D.

2 Q Wouldn't that be a way to say you've given it
3 to them or that you discussed it because they obtained
4 it from you?

5 MR. SYLVERTOOTH: Form.

6 BY CAPTAIN LINLOR:

7 Q So caller I.D. So you never told them your
8 number?

9 A I don't recall specifically giving my number
10 to them.

11 Q Did you ever discuss that they were obtaining
12 your number off of caller I.D.?

13 A It's possible.

14 Q Did you ever trade e-mails with them?

15 A Yes.

16 Q So they had your e-mail address; correct?

17 A Correct.

18 Q And they would have had your phone number by
19 one means or another; correct?

20 A Correct.

21 Q So that was TSA counsel -- is Brian --

22 A Nathan Bryant.

1 Q There we go.

2 And would you also ever provide your phone
3 number or address to any DOJ parties?

4 A I provided my phone number to Mr. Sylvertooth.

5 Q When did you do that?

6 A I don't recall. I don't recall exactly when.

7 Q Was it right after the incident of March 10th
8 or --

9 A No.

10 Q -- more recently?

11 A More recently.

12 Q But Mr. Sylvertooth does have your cell phone
13 number; correct?

14 A That's correct.

15 Q Does he have your address, do you believe?

16 A I don't know.

17 Q So Mr. Sylvertooth has had your phone number.

18 We don't know if Mr. Sylvertooth has had your address;
19 is that correct?

20 A Correct.

21 CAPTAIN LINLOR: Okay. We're running out of
22 tape anyway. It's late in the day. Thank you, Mr.

1 Whetsell, for your time. I am prepared to end my
2 questions.

3 Counsel, do you have any questions?

4 MR. SYLVERTOOTH: I do not.

5 THE VIDEOGRAPHER: We're going off the record
6 at 5:02.

7

8 ERRATA SHEET

9 Job No. 65786

10 Case Caption: LINLOR VS. POLSON

11 Deposition Date: Friday, October 20, 2017

12 DECLARATION UNDER PENALTY OF PERJURY

13 I declare under penalty of perjury that I have
14 read the entire transcript of my Deposition taken in the
15 captioned matter or the same has been read to me, and
16 the same is true and accurate, save and except for
17 changes and/or corrections, if any, as indicated by me
18 on the DEPOSITION ERRATA SHEET, hereof, with the
19 understanding that I offer these changes as if still
20 under oath.

21 Signed on the ____ day of _____, 20____.

22

1	_____
2	Subscribed to and sworn before me this ____ day
3	of _____, 20__, in _____.
4	_____
5	Notary Public
6	My commission expires:_____, 20__.
7	Notary Public Registration No.
8	DEPOSITION ERRATA SHEET
9	Page No.____Line No.____Change to:_____
10	_____
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1 CERTIFICATE OF NOTARY PUBLIC

2 I, Janie Arriaga, Court Reporter, before
3 whom the foregoing deposition was taken, do hereby
4 certify that the witness whose testimony appears in
5 the foregoing deposition, was duly sworn by me; that
6 the testimony of said witness was taken by me
7 stenographically, and that I, thereafter, reduced it
8 to typewriting; that said deposition is a true
9 record of the testimony given by said witness; that
10 I am neither counsel for, related to, nor employed
11 by any of the parties to the action in which this
12 deposition was taken; and further, that I am not a
13 relative or employee of any attorney or counsel
14 employed by the parties thereto; nor financially or
15 otherwise interested in the outcome of the action.

16 

17
18 _____
19 Janie Arriaga
20 Notary Public in and for the
21 Commonwealth of Virginia
22

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